Fiscal Notes Prepared by the Missouri State Auditor's Office in 2014

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Fiscal Note Number	Date Received	Fiscal Note Description	Date Submitted to Secretary of State
14-SJR 36	06/06/2014	Senate Joint Resolution No. 36 - Modifies Right to Keep and Bear Arms	06/13/2014
14-SJR 27	06/06/2014	Senate Joint Resolution No. 27 - Electronic Privacy	06/13/2014
14-HJR 90	05/30/2014	House Joint Resolution No. 90 - Early Voting	06/30/2014
14-HJR 72	05/30/2014	House Joint Resolution No. 72 - Legislative Check on the Governor's Decisions to Restrict Funding	06/30/2014
14-HJR 48	06/06/2014	House Joint Resolution No. 48 - Veterans Lottery Ticket	06/13/2014
14-HJR 16	05/22/2013	House Joint Resolution No. 16 - Permissibility of Evidence in Criminal Prosecutions	06/21/2013
14-HJR 11 & 7	05/22/2013	House Joint Resolution No. 11 & 7 - Rights of Missouri Citizens to Engage in Agricultural Production and Ranching Practices	06/21/2013
14-129	03/11/2014	Proposal Related to Chapter 149, RSMo (Heisinger) - Tobacco Tax	04/10/2014
14-128	03/11/2014	Proposal Related to Chapter 149, RSMo (Heisinger) - Tobacco Tax	04/10/2014
14-127	03/11/2014	Proposal Related to Chapter 149, RSMo (Heisinger) - Tobacco Tax	04/10/2014
14-126	03/10/2014	Proposal Related to Chapter 149, RSMo, version C (Heisinger) - Tobacco Tax	Withdrawn by Petitioner
14-125	03/10/2014	Proposal Related to Chapter 149, RSMo, version B (Heisinger) - Tobacco Tax	Withdrawn by Petitioner
14-124	03/10/2014	Proposal Related to Chapter 149, RSMo, version A (Heisinger) - Tobacco Tax	Withdrawn by Petitioner
14-123	02/10/2014	Proposal to Chapter 47, RSMo (Brown) - Allow the Formation of a New Missouri County by the Name of Castlepoint County, Missouri	Rejected by Sec of State
14-122	01/31/2014	Proposed Constitutional Amendment - Article I (Nenninger) - Marijuana Legalization	03/04/2014
14-121	01/31/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	03/04/2014
14-120	01/31/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	03/04/2014
14-119	01/31/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	03/04/2014
14-118	01/31/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	03/04/2014
14-117	01/29/2014	Proposal to Prohibit Breed Specific Legislation (Runk)	Rejected by Sec of State
14-116	01/29/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
14-115	01/29/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
14-114	01/28/2014	Proposed Constitutional Amendment - Article I (Nenninger) - Marijuana Legalization	Withdrawn by Petitioner
14-113	01/27/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
14-112	01/27/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
14-111	01/27/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
14-110	01/27/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
14-109	01/21/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
14-108	01/21/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
14-107	01/21/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Withdrawn by Petitioner
			Withdrawn by

14-106	01/21/2014	Proposed Constitutional Amendment - Article X (Ellinger) - Taxation	Petitioner
14-105	12/24/2013	Proposed Constitutional Amendment - Article IV (Reed) - Recall of Elected Statewide Office Holders	Rejected by Sec of State
14-104	12/24/2013	**Proposed Constitutional Amendment - Article IV (Reed) - Sales Tax for Technology Parks in Southwest Missouri**	01/24/2014
14-103	12/24/2013	Proposed Constitutional Amendment - Article IV (Reed) - Sales Tax for Rail Passenger Service	Rejected by Sec of State
14-102	12/23/2013	**Proposed Constitutional Amendment - Article I, version 26 (Viets) - Marijuana Legalization**	01/23/2014
14-101	12/23/2013	**Proposed Constitutional Amendment - Article I, version 25 (Viets) - Marijuana Legalization**	01/23/2014
14-100	12/23/2013	**Proposed Constitutional Amendment - Article I, version 24 (Viets) - Marijuana Legalization**	01/23/2014
14-099	12/23/2013	**Proposed Constitutional Amendment - Article X (Ellinger) - Taxation**	01/23/2014
14-098	12/23/2013	**Proposed Constitutional Amendment - Article X (Ellinger) - Taxation**	01/23/2014
14-097	12/23/2013	**Proposed Constitutional Amendment - Article X (Ellinger) - Taxation**	01/23/2014
14-096	12/23/2013	**Proposed Constitutional Amendment - Article X (Ellinger) - Taxation**	01/23/2014
14-095	12/13/2013	Proposed Constitutional Amendment - Article I, version 26 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-094	12/13/2013	Proposed Constitutional Amendment - Article I, version 25 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-093	12/13/2013	Proposed Constitutional Amendment - Article I, version 24 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-092	12/13/2013	**Proposed Constitutional Amendment - Article I, version 23 (Viets) - Marijuana Legalization**	01/13/2014
14-091	12/13/2013	**Proposed Constitutional Amendment - Article I, version 22 (Viets) - Marijuana Legalization**	01/13/2014
14-090	12/13/2013	**Proposed Constitutional Amendment - Article I, version 21 (Viets) - Marijuana Legalization**	01/13/2014
14-089	12/13/2013	**Proposed Constitutional Amendment - Article I, version 20 (Viets) - Marijuana Legalization**	01/13/2014
14-088	12/13/2013	**Proposed Constitutional Amendment - Article I, version 19 (Viets) - Marijuana Legalization**	01/13/2014
14-087	12/13/2013	**Proposed Constitutional Amendment - Article I, version 18 (Viets) - Marijuana Legalization**	01/13/2014
14-086	12/13/2013	**Proposed Constitutional Amendment - Article I, version 17 (Viets) - Marijuana Legalization**	01/13/2014
14-085	12/13/2013	**Proposed Constitutional Amendment - Article I, version 16 (Viets) - Marijuana Legalization**	01/13/2014
14-084	12/13/2013	**Proposed Constitutional Amendment - Article I, version 15 (Viets) - Marijuana Legalization**	01/13/2014
14-083	12/13/2013	**Proposed Constitutional Amendment - Article I, version 14 (Viets) - Marijuana Legalization**	01/13/2014
14-082	12/13/2013	**Proposed Constitutional Amendment - Article I, version 13 (Viets) - Marijuana Legalization**	01/13/2014
14-081	12/13/2013	**Proposed Constitutional Amendment - Article I, version 12 (Viets) - Marijuana Legalization**	01/13/2014
14-080	12/13/2013	**Proposed Constitutional Amendment - Article I, version 11 (Viets) - Marijuana Legalization**	01/13/2014
14-079	12/11/2013	**Proposed Constitutional Amendment - Article III, version 3 (Ketcher) - Changes Impacting the General Assembly**	01/10/2014
14-078	12/06/2013	**Proposed Constitutional Amendment - Article X (Willard) - Taxation**	01/07/2014
14-077	12/04/2013	Proposed Constitutional Amendment - Article I, version 10 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-076	12/04/2013	Proposed Constitutional Amendment - Article I, version 9 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-075	12/04/2013	Proposed Constitutional Amendment - Article I, version 8 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-074	12/04/2013	Proposed Constitutional Amendment - Article I, version 7 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-073	12/04/2013	Proposed Constitutional Amendment - Article I, version 6 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-072	12/04/2013	Proposed Constitutional Amendment - Article I, version 5 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-071	12/04/2013	Proposed Constitutional Amendment - Article I, version 4 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-070	12/04/2013	Proposed Constitutional Amendment - Article I, version 3 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-069	12/04/2013	Proposed Constitutional Amendment - Article I, version 2 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-068	12/04/2013	Proposed Constitutional Amendment - Article I, version 1 (Viets) - Marijuana Legalization	Withdrawn by Petitioner
14-067	11/20/2013	**Proposed Constitutional Amendment - Article VIII, version 6 (Dameron) - Early Voting**	12/19/2013
14-066	11/20/2013	**Proposed Constitutional Amendment - Article VIII, version 5 (Dameron) - Early Voting**	12/19/2013
14-065	11/20/2013	**Proposed Constitutional Amendment - Article VIII, version 4 (Dameron) - Early Voting**	12/19/2013
14-064	11/18/2013	Proposed Constitutional Amendment - Article IV (Reed) - Recall of Elected Statewide Office Holders	Rejected by Sec of State
14-063	11/18/2013	**Proposed Constitutional Amendment - Article IV (Reed) - Sales Tax for Technology Parks in Southwest Missouri**	12/17/2013

14-062	11/18/2013	Proposed Constitutional Amendment - Article IV (Reed) - Sales Tax for Rail Passenger Service	Rejected by Sec of State
14-061	11/18/2013	**Proposed Constitutional Amendment - Article X (Willard) - Taxation**	12/17/2013
14-060	11/12/2013	**Proposed Constitutional Amendment - Article X, version 2 (Willard) - Limitations on Tax Credits**	12/09/2013
14-059	11/12/2013	**Proposed Constitutional Amendment - Article X, version 1 (Willard) - Limitations on Tax Credits**	12/09/2013
14-058	11/08/2013	Proposed Constitutional Amendment - Article VIII, version 3 (Dameron) - Early Voting	Withdrawn by Petitioner
14-057	11/08/2013	Proposed Constitutional Amendment - Article VIII, version 2 (Dameron) - Early Voting	Withdrawn by Petitioner
14-056	11/08/2013	Proposed Constitutional Amendment - Article VIII, version 1 (Dameron) - Early Voting	Withdrawn by Petitioner
14-055	11/04/2013	**Proposed Constitutional Amendment - Article III, version 2 (Ketcher) Changes Impacting the General Assembly**	12/06/2013
14-054	10/28/2013	**Proposed Constitutional Amendment - Article III (Ketcher) - Changes Impacting the General Assembly**	12/02/2013
14-053	10/24/2013	Proposal Related to Chapter 190, RSMo (Steele) - Dissolve the Meramac Ambulance District in St. Louis County	Rejected by Sec of State
14-052	10/10/2013	**Proposed Constitutional Amendment - Article IV, version 2 (Gray) - Transportation Funding**	11/13/2013
14-051	09/26/2013	**Proposal Related to Chapters 172, 174, 175, and 178, RSMo, version 2 (Ketcher) - Composition of University Boards**	10/25/2013
14-050	09/17/2013	Proposed Constitutional Amendment - Article IV (Gray) Transportation Funding	Withdrawn by Petitioner
14-049	08/27/2013	Proposal Impacting Fire Protection Districts	Rejected by Sec of State
14-048	08/26/2013	**Proposed Constitutional Amendment - Article V, version 2 (Elliott) - Election of Judges**	09/24/2013
14-047	08/26/2013	**Proposed Constitutional Amendment - Article V, version 1 (Elliott) - Election of Judges**	09/24/2013
14-046	08/23/2013	Incorporation of St. Louis Regional High Schools	Rejected by Sec of State
14-045	08/15/2013	**Proposed Constitutional Amendment - Article IX (Swanson) - Children's Education Initiative**	09/09/2013
14-044	08/07/2013	Proposal Related to Chapters 172, 174, 175, and 178, RSMo (Ketcher) - Composition of University Boards	Withdrawn by Petitioner
14-043	07/17/2013	Proposal Related to Chapter 320, RSMo (Brown) - Shall the State Fire Marshal office be a state elected office of the State Fire Marshal	Rejected by Sec of State
14-042	07/02/2013	**Proposed Constitutional Amendment - Article I, version 6 (Montgomery) - Consumer Borrowers' Bill of Rights**	08/02/2013
14-041	07/02/2013	**Proposed Constitutional Amendment - Article III, version 5 (Montgomery) Consumer Borrowers' Bill of Rights**	08/02/2013
14-040	07/02/2013	**Proposed Constitutional Amendment - Article III, version 3 (Patek) - Uniform Interest Rates**	08/02/2013
14-039	06/25/2013	**Proposal Related to Chapter 302, RSMo, version 4 (O'Meara) - Motorcycle Passenger Limitations**	07/25/2013
14-038	05/30/2013	**Proposed Constitutional Amendment - Article III, version 4 (Montgomery) Consumer Borrower's Bill of Rights**	07/01/2013
14-037	05/30/2013	**Proposed Constitutional Amendment - Article I, version 3 (Montgomery) - Consumer Borrower's Bill of Rights**	07/01/2013
14-036	05/20/2013	Proposal Related to Chapter 302, RSMo, version 3 (O'Meara) - Motorcycle Passenger Limitations	Withdrawn by Petitioner
14-035	05/07/2013	Proposal Related to Chapter 302, RSMo, version 2 (O'Meara) - Motorcycle Passenger Limitations	Withdrawn by Petitioner
14-034	05/07/2013	Proposal Related to Chapter 162, RSMo (Stanton) - School Districts	Rejected by Sec of State
14-033	05/06/2013	**Proposed Constitutional Amendment - Article IX (Jones) - Allowing Public Aid for Religious Purposes and Institutions**	06/07/2013
14-032	05/06/2013	**Proposed Constitutional Amendment - Article VIII, version 2 (Jones) - Campaign Contribution Reform Initiative**	06/07/2013
14-032	12/04/2013	**Proposed Constitutional Amendment - Article VIII, version 2 (Jones) - Campaign Contribution Reform Initiative**	12/30/2013
14-031	05/01/2013	Proposal Related to Chapter 302, RSMo (O'Meara) - Motorcycle Operator License Laws)	Withdrawn by Petitioner
14-030	04/23/2013	**Proposed Constitutional Amendment - Article III, version 2 (Patek) Changes Impacting Lenders**	05/23/2013
14-029	04/22/2013	Proposed Constitutional Amendment - Article VIII (Jones) - Campaign Contribution Reform Initiative	Rejected by Sec of State
14-028	04/10/2013	Proposed Constitutional Amendment - Article III (Patek) Changes Impacting Lenders	Withdrawn by Petitioner

14-027	04/10/2013	Proposed Constitutional Amendment - Article III, version 2 (Montgomery) Consumer Borrowers' Bill of Rights	Withdrawn by Petitioner
14-026	04/01/2013	**Proposed Constitutional Amendment - Article I, version 3 (Reading) - Voters' Right to Determine and Approve Local Tobacco Taxes Initiative**	04/30/2013
14-025	03/28/2013	Proposed Constitutional Amendment - Article III (Montgomery) - Consumer Borrowers' Bill of Rights	Rejected by Sec of State
14-024	03/18/2013	**Proposed Constitutional Amendment - Article IX (Ellinger) - Certificated Staff**	04/16/2013
14-023	02/26/2013	Proposed Constitutional Amendment - Article X, version 2 (Reading) Voters' Right to Determine and Approve Local Tobacco Taxes Initiative	Withdrawn by Petitioner
14-022	02/13/2013	**Proposed Constitutional Amendment - Article X (Kriegshauser) - Taxation**	03/14/2013
14-021	02/08/2013	Proposed Constitutional Amendment - Article X (Kriegshauser) - Taxation	Withdrawn by Petitioner
14-020	01/17/2013	Proposal Related to Chapters 115 and 561, RSMo (Bell) - Restore the Right to Register and to Vote to Missouri Prisoners	Rejected by Sec of State
14-019	12/11/2012	Proposed Constitutional Amendment - Article I, version 1 (Reading) - Voters' Right to Approve Local Tobacco Taxes Initiative	Withdrawn by Petitioner
14-018	12/10/2012	**Proposal Related to Chapters 367 and 408, RSMo, version 2 (Dickmann) - Consumer Credit Loans**	01/10/2013
14-017	12/10/2012	**Proposal Related to Chapter 290, RSMo, version 8 (Granich) - Minimum Wage**	01/10/2013
14-016	12/10/2012	**Proposal Related to Chapter 290, RSMo, version 7 (Granich) - Minimum Wage**	01/10/2013
14-015	12/10/2012	**Proposal Related to Chapter 290, RSMo, version 6 (Granich) - Minimum Wage**	01/10/2013
14-014	12/10/2012	**Proposal Related to Chapter 290, RSMo, version 5 (Granich) - Minimum Wage**	01/10/2013
14-013	12/06/2012	Proposal Related to Chapter 290, RSMo, version 4 (Granich) - Minimum Wage	Withdrawn by Petitioner
14-012	12/06/2012	Proposal Related to Chapter 290, RSMo, version 3 (Granich) - Minimum Wage	Withdrawn by Petitioner
14-011	12/06/2012	Proposal Related to Chapter 290, RSMo, version 2 (Granich) - Minimum Wage	Withdrawn by Petitioner
14-010	12/06/2012	Proposal Related to Chapter 290, RSMo, version 1 (Granich) - Minimum Wage	Withdrawn by Petitioner
14-009	11/26/2012	Proposal Related to Chapter 115, RSMo (Brown) - Conduct of Elections	Rejected by Sec of State
14-008	11/26/2012	Proposal Related to Chapter 320, RSMo (Brown) - Fire Marshal Reporting	Rejected by Sec of State
14-007	11/26/2012	Proposal Related to Chapters 367 and 408, RSMo (Dickmann) - Consumer Credit Loans	Withdrawn by Petitioner
14-006	11/19/2012	**Proposal Related to Chapter 213, RSMo, version 2 (Malin) - Discrimination Based on Sexual Orientation and Gender Identity**	12/18/2012
14-005	11/09/2012	**Proposed Constitutional Amendment - Article VI, version 2 (Calzone) - Public Nuisances**	12/11/2012
14-004	11/09/2012	**Proposed Constitutional Amendment - Article VI, version 1 (Calzone) - Public Nuisances**	12/11/2012
14-003	11/09/2012	**Proposed Constitutional Amendment - Article I, version 2 (Calzone) - Eminent Domain**	12/11/2012
14-002	11/09/2012	**Proposed Constitutional Amendment - Article I, version 1 (Calzone) - Eminent Domain**	12/11/2012
14-001	11/08/2012	Proposal Related to Chapter 213, RSMo (Malin) - Nondiscrimination Protection, Missouri Fairness in Housing and Employment Initiative	Withdrawn by Petitioner

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-002)

Subject

Initiative petition from Ron Calzone regarding a proposed constitutional amendment to Article I, Sections 26, 27, and 28. (Received November 9, 2012)

Date

November 28, 2012

Description

This proposal would amend Article I, Sections 26, 27, and 28 of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office,** the **State Tax Commission, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that the implementation of this proposal creates no fiscal impact. However, they assume that because this proposal has the potential to be the subject of state litigation, potential costs are unknown.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated they anticipate that the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department. However, changes to the state's imminent domain laws may affect public colleges and universities within the state. A response on the proposal should also be sought from them.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the department would not anticipate a fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition may have fiscal impact on their department, to the extent it exercises the power of eminent domain. The petition proposes a new method of determining just compensation, which will likely be greater than the current method. It also places additional conditions and restrictions on the use of the power of eminent domain, which could lead to more agency costs as they work to demonstrate compliance with the new provisions.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's Office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from **Department of Transportation** indicated they are unable to provide an estimate of the negative fiscal impact this initiative petition will have upon their department if it is approved by the voters; therefore, the negative fiscal impact due to this initiative petition is unknown, greater than $100,000.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office. There should be no impact on general or total state revenues.

Officials from the **Missouri Senate** indicated this legislation appears to have no fiscal impact as it relates to their agency.

Officials from the **Office of State Courts Administrator** indicated there is fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there will be no impact to their office.

Officials from the **State Tax Commission** indicated this initiative petition would have no impact to their agency.

Officials from the **City of Columbia** indicated while hard to quantify, they expect that these amendments, if approved, would create a more costly process for acquiring property, and possibly add risk.

They would expect substantial delays in projects that require condemnation because the city could not get possession of the easement or property until "a final legal determination of the legitimacy of the taking is established." This could be tied up in court for years if it's appealed. To avoid this, it could be necessary to pay more than fair market value for takings.

It appears that without a property owner's "consent," the city might bear all the costs of acquisition without getting true ownership of the property, creating risk through unclear title and inability to actually govern use of the property.

Officials from the **City of Jefferson** indicated the cost to the city should this petition become law is unknown but would likely increase the cost of condemnation to the city.

Officials from the **City of Kansas City** indicated this initiative petition would cause a large loss of tax revenues as the initiative eliminates several economic development tools available to the city. The city will be unable to attract and unable to retain businesses. This initiative discourages economic development in Missouri and encourage businesses to locate or relocate across the state line. The annual cost to the city is in the millions.

Officials from the **City of Raymore** indicated the city does not anticipate any fiscal impact.

Officials from the **City of St. Joseph** indicated the initiative petition would result in significant increases in cost and significant amounts of lost revenue to the city. In addition, the following related information was provided by the city. The initiative petition proposes changes to Article I, Sections 26, 27, and 28 that would prohibit the use of eminent domain for redevelopment by providing that: (a) only public entities can acquire property using eminent domain; (b) no private ownership or other private rights shall be considered a public use; (c) the future use must be declared at the time of acquisition and cannot be changed; and (d) the public entity that acquired the property via eminent domain cannot transfer such property to private ownership any sooner than twenty (20) years following the acquisition unless the original owner has been offered the right to buy back the property at the original price or unless the private owner is providing products or services incidental to the function of a publicly owned facility.

The changes to Article VI, Section 21, effectively strips out the ability of local governments to use eminent domain for redevelopment that involves private entities. These proposed

changes will result in both extreme costs and extreme loss of revenue to the City. The city uses eminent domain sparingly. But it is a very important tool that is vital in their efforts to overcome hundreds of acres of blight caused by five decades of suburban flight.

Much like St. Louis, St. Joseph boasted a population of 100,000 in 1900, which has fallen to 76,000 since. As a result of this population loss, there are now hundreds of vacant lots and structures in the City of St. Joseph.

Redeveloping this decay would be easy if all of the properties adjacent to each other, but old-style building lots (many times 40' x 100' wide) will not accommodate modern development. To re-develop, multiple lots need to be combined in a practical density to attract both developers and builders to invest and for potential residents to purchase and live in. But lacking concentrations of contiguous lots, re-development is difficult to achieve. The vast majority of our privately owned vacant buildings and lots are not maintained by their private owners. Many of these structures suffer from the blight in the larger neighborhood and block reasonable re-development. Blight, and its effects on neighboring properties, property taxes, and public service delivery spread ever wider if not addressed.

Eminent domain is needed to eradicate the vacant, abandoned, dangerous and problem properties that were left behind 25% of St. Joseph's population left.

Private participation in the redevelopment process is necessary because the city does not have the resources to acquire the thousands of problem properties in the city, eliminate the problematic conditions, and hold the property for twenty (20) years. These properties were never used for governmental purposes and were not intended for governmental use. The city does not wish to—and cannot afford to—use public funds and eminent domain to purchase these properties, use public funds to redevelop them—and then own them and operate them for what are essentially private business and residential purposes for a twenty-year period. As provided in the proposed amendment, the city will not even be able to enlist the assistance of private enterprise in the operation of the properties or to realize any income from the property to offset the expense of acquiring and redeveloping it for the twenty-year period, because the proposed amendment prohibits the property from being "sold, leased, transferred, or otherwise made available for use by a private party within 20 years of such taking…unless the private owner is providing products or services incidental to the function of a publicly owned facility." Private redevelopment and ownership will allow the city to rebuild its tax base; public ownership for a twenty-year period, on the other hand, will cost the city millions upon millions of dollars and result a veritable wasteland for two decades since it will not be possible for the city to use the property in any manner that allows the city to recoup even a portion of its investment—if it were even possible for the city to make the investment in the first place. Since city funds are not available, it will not possible to address these conditions with the limited and weak mechanisms that will remain if the amendment passes. Thus, the proposed amendment would sentence the city to another five—and more—decades of decline, disinvestment and population loss as people and businesses again leave the city because they cannot tolerate negative conditions that the city is powerless to change. The city needs to rebuild the market for city real estate and rebuild its tax base in the process—the proposed amendment would make it impossible for the city to do this.

Even more important, the amendment will make it impossible for the city to address the redevelopment of blighted areas in a manner that returns these areas to productive uses that

generate tax revenues for the city and the State of Missouri. The redevelopment of blighted areas necessarily involves the participation of the private sector, which the amendment would prohibit for a twenty-year period. While few cities enjoy the prospect of utilizing this power as a re-development tool, it is nevertheless a tool that is effective both in its actual use and its possible to motivate all of the players involved in re-development to make the decisions necessary to rescue neighborhoods and commercial areas one at a time. It is critical that the city retain the ability to address blighted areas and to partner with private enterprise for the redevelopment of these blighted areas—the city cannot address the distress that currently exists in the city using public funds alone.

Because of the limited time allowed to review this issue and its far-reaching impacts, sufficient time to analyze the fiscal impact has not been provided. However, over a ten year period staff estimates an impact of approximately $7,500,000.

PUBLIC WORKS IMPROVEMENTS

Changes to the constitution regarding public purpose, property retention, and deadlines for use, would have dramatic and far-reaching impacts on any government undertaking typical public projects in a typical year.

In St. Joseph, city government seeks to be as efficient and prudent with public funds as possible. An effective tool to hedge against future costs for projects that do not have complete funding available is to pursue corridor preservation projects. Examples of this would be to acquire property necessary to build a new road in the future of easements for a new sewer, flood control, or utility project. Taxpayers realize a benefit from purchasing property today at current valuations and also head-off future costs by purchasing property before it develops. Already developed property costs more and has more negatives attached to it (possible purchase and demolition of homes and businesses) that could easily be avoided if the government owned necessary property before development.

It is not uncommon for corridor preservation projects to precede actual utilization by 10-20 years. However, if section 28.2 were enacted, all property would return after five years. This would effectively eliminate the ability of government to reduce the future costs of future public improvements. It will make easily avoided conflicts more expensive and more difficult, with property owners and taxpayers suffering needlessly. In St. Joseph, this provision assumes the following:

- 2% per year cost escalation for listed projects of $10,000,000 = $200,000/year x 10 years = $2,000,000

Section 26.1 proposes to make debatable the public purpose of project's public use. In fact, it opens the door for the approach taken to address the public use being decided via a jury trial. The potential impact to a project involves an adversarial position being taken for a completed project design, and an alternative decision being made by a jury. This would require the unit of government to re-design the project according to the direction of the jury, and regardless of the technical merit and cost-effectiveness of that decision. Aside from the financial impact of the delays involved, re-design would expose government to re-paying for the same design, typically 10% of the project budget. In St. Joseph, the impact would be as follows:

- $150,000.000 CSO Program x 10% = $15,000,000 in additional design fees over 20 years
- $50,000,000 Road Projects x 10% = $5,000,000 in additional design fees over 10 years

Section 26 also makes significant changes to the requirements of appraisals. On federal projects, and per state law now, appraisals are required to be made by licensed professionals. The intent is that for appraisals to consistently follow prescribed methodology, be objective, consistent, and defensible. The change to allow appraisals to conform with "methods typical to the ordinary course of business" essentially throws this professional approach out. If this change were made, a multitude of methods may be accepted, throwing valuation into a much higher level that is made without basis in fact. St. Joseph typically has experienced differences between trained individuals and the lay community at 50% or more. Over the next twenty years, the following would be expected:

- $9,000,000 – value of CSO property/easement acquisition x 50% escalation = $4,500,000 extra that taxpayers would have to needlessly pay for a public project.
- $5,000,000 – value of Road Projects property/easement acquisition x 50% escalation = $2,500,000 extra that taxpayers would have to needlessly pay for a public project

Section 28.4 has the potential for a massive abuse. It is not at all unusual for property owners to declare that they will not be able to utilize a property if not all of it is purchased, stating that the balance of the property not required would be an uneconomic remnant. Many governments, to avoid the creation or claim of such a condition, purchase the entire parcel, construct their improvement, and the re-sell the balance of the property that was not needed in the first place.

Under the provisions of 28.4, a property owner has the potential to realize a profit twice on a property. The first, being the sale of property the government didn't originally need but acquired at the insistence of a property owner. The second, from a sole-source arrangement wherein he can re-purchase at the lower rate after improvements have been made to the property (when it would be worth more via the virtue of having a new road, new utilities, grading/clearing, etc. that was necessary for the project.) Taxpayers are hurt initially having to buy more property than needed, but can't realize the benefit of that investment by being required to sell a property back at the pre-developed rate. This type of issue is claimed on approximately 10% of all property acquisition activities as follows:

- $14,000,000 (value of all property activities) x 10% = $1,400,000

- $1,400,000 x 50% (value of properties purchased at insistence of owners) = $700,000
- $700,000 x 25% (enhanced value typical of "unusable" property after a project) = $175,000
- Total lost $875,000

One of the basic reasons that local government exists is to provide public services and construct and maintain public infrastructure. The proposed changes to the constitution would fundamentally alter these basic tenets of government, destroying the ability of government to plan for the future and to construct projects. In the time given to comment, St. Joseph was not able to compute the far-reaching and more significant impacts to a community that can't grow, can't improve itself, and can't provide the basic elements that its citizens, prospective

businesses, and prospective citizens expect and require. The lost employment and resident opportunities are significant.

Total impacts for St. Joseph would be: $37,375,000.00

Officials from the **City of St. Louis** indicated they estimate the fiscal impact of this bill for fiscal years 2014, 2015 and 2016 to be as follows:

Three agencies within the St. Louis Development Corporation (SLDC) currently have eminent domain authority. They have used that power to assist developers or redevelopers acquire parcels that are necessary to complete their developments or redevelopments and thereby bring new jobs, industry, housing and revenues to the city. Losing eminent domain authority will have an unquantifiable negative impact on the city.

Officials from the **City of Wentzville** indicated there will be no financial impact since this describes how the city does commendations now.

Officials from **Linn State Technical College** indicated these changes should not have an estimated cost or savings to their college.

Officials from **Metropolitan Community College** indicated this would have no direct fiscal impact on their college.

Officials from **University of Missouri** indicated this petition would have a significant fiscal impact on the university, but they do not have enough information to determine an actual amount.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District,** and **St. Louis Community College.**

Fiscal Note Summary

The total cost or savings to state or local governmental entities is unknown. The estimated costs, if any, to state and local governmental entities could be significant.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-030)

Subject

Initiative petition from Jewell Patek regarding a proposed constitutional amendment to Article III. (Received April 23, 2013)

Date

May 13, 2013

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources. They may seek additional appropriations if there is a significant increase in the number of complaints filed by consumers.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact their department or local schools.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will increase the revenue to the Division of Finance Fund within their department by one hundred dollars per licensee. As of the date of this email there are 2,276 active payday licensees, which would result in an additional $227,600 fee income.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Social Services** indicated there is no fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no impact to their office.

Officials from the **City of Columbia** indicated they assume no impact on their city.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition would become law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated this has no impact on their city.

Officials from **Metropolitan Community College** indicated this petition would not have any significant fiscal impact on their college.

The State Auditor's office did not receive a response from the **Department of Higher Education,** the **Department of Natural Resources,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

No significant estimated costs or savings are expected for state and local governmental entities if this proposal is approved by voters. State governmental entities estimated this proposal could result in increased licensing revenue of at least $200,000 annually.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-032)

Subject

Initiative petition from Todd Jones regarding a proposed constitutional amendment to Article VIII. (Received May 6, 2013)

Date

May 28, 2013

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

Marc H. Ellinger provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources, but should significant litigation result, may seek future additional appropriations.

Officials from the **Department of Elementary and Secondary Education** indicated there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Higher Education** indicated they do not anticipate that the proposal contained in this initiative petition would have any direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated:

Penalty provisions, the component of the petition to have potential fiscal impact for their department, is for up to a class D felony. Currently, their department cannot predict the number of new commitments which may result from the creation of the offence(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of their department due to the provisions of this legislation, their department will incur a corresponding increase of direct offender costs either through incarceration (FY12 average of $17.059 per offender, per day, or an annual cost of $6,227 per inmate) or through supervision provided by the

Board of Probation and Parole (FY12 average of $4.960 per offender, per day, or an annual cost of $1,810 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department. The officials indicated they had no way of measuring the proposals economic impact.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal has no impact on their office. This proposal will have an impact on the Missouri Ethics Commission, but they will be responding independently.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing

requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated this initiative petition has no fiscal impact to their office.

Officials from the **City of Columbia** indicated this appears to affect contributions to committees that form to influence the result of local ballot issue elections. It is impossible for the city to determine if this would increase or decrease contributions and, as a result, the potential for passage of issues for capital improvements.

Officials from the **City of Jefferson** indicated they do not believe there will be a fiscal impact if that petition becomes law.

Officials from the **City of Kansas City** indicated no fiscal impact on their city.

Officials from the **City of Raymore** indicated they do not anticipate any fiscal impact.

Officials from **Metropolitan Community College** indicated this petition would have no fiscal impact on their college.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

Officials from the **Missouri Ethics Commission** indicated the total cost for salaries, fringe benefits, equipment and expenses, local assistance, and other costs will be $118,152 for FY 2014, $121,113 for FY 2015, and $122,339 for FY 2016.

The petition refers to both continuing committees and political action committees interchangeably. Both committees have the same definition in the petition. Senate Bill 844 had changed the name of continuing committee to political action committee, but the definition remained the same. After SB844was struck down by the Missouri Supreme Court, the committees continued as continuing committees. For example, Subsection 3 (12) attempts to restrict contributions of political action committees (but does not mention continuing committees.

In addition Subsection 3 (12) contains restriction committee to committee transfers challenged as unconstitutional in SB844 due to the restrictions on corporations not included in the designated chapters. The state did not dispute that constitutional issue. Subsection 3(16)c also restricts contributions from foreign corporations.

Sections 4(1) and 5 reference violations of Section 3 of the Article. It is unclear whether the drafter intended to reference Section 23.

Implementing the statutory requirements regarding contributions between campaign finance committees, would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo., about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in campaign finance committee adherence to the transfer of funds, including reviewing, auditing, and performing cross checks, as established in Section 105.955.14 (2), (3), RSMo. Currently about 11,000 campaign finance reports are filed annually with the Commission (quarterly and other disclosure reports) from 2,200 different campaign finance committees.
- Investigate written complaints and conduct investigations, as established in Section 105.955.14, RSMo. Investigative work requires identifying necessary documentation and records to request and/or subpoena, identifying witnesses and interviewing witnesses, reviewing all relevant documentation, performing complex and detailed analysis of data and information and witness interviews, communicating with Commission management and legal staff; reviewing Missouri statutes and constitution; drafting investigative report; presenting report to Commission.
- Perform legal actions related to investigations conducted in addition to conducting legal proceedings before the Commission in the event a violation is found. Conducting legal actions during the investigation and hearing stage ensures fairness throughout Commission proceedings. Legal actions include reviewing all complaints received for statutory authority, reviewing case correspondence including legal memoranda and responses to investigators; providing legal oversight for all investigations (complaints and other investigations); this includes communicating with and reviewing all investigative work, work papers, and reports; conducting legal analysis of alleged statutory violations; drafting and issuing all legal documents including subpoenas, affidavits, pleadings, legal petitions for a hearing before the Commission, attorney correspondence, correspondence and communication with/to respondents, joint stipulations, findings of facts and conclusions of law, and Commission orders; preparation of hearing exhibits; interviews of hearing witnesses; preparation for and conducting hearings; oversight and review of appeal pleadings in the event of an appeal.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo. about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and

coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.

- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo., through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•2 Business Analysts to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

Marc H. Ellinger provided the following information as an opponent of the proposal to the State Auditor's office.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Todd Jones on May 3, 2013.

In 2012, the State Auditor's Office issued a Fiscal Note (11-35) for a similar initiative petition. In that fiscal note, both the Department of Revenue and the Missouri Ethics Commission indicated there would be additional costs to their departments. The Auditor's Office issued the following Fiscal Note Summary:

> It is estimated this proposal will increase state government costs by at least $127,000 annually and result in one-time costs of about $28,000. Any potential impact to state government revenue could not be determined. It is estimated this proposal will have no costs or savings to local governments.

This fiscal note summary vastly underestimates the costs to state and local governments as a result of the proposed measure. We urge you to adopt a different fiscal note for this proposed measure on the basis of the data you will find herein. Not only will there be direct costs to state agencies as indicated in Fiscal Note 11-35 but there will be widespread effects on the Missouri economy. Each election cycle, candidates spend millions and millions of dollars in Missouri. Limiting the total amount of contributions will limit the total amount of money candidates will raise, and therefore will decrease the amount of campaign spending in Missouri. Currently candidates spend millions of dollars on payroll for campaign workers, thousands of dollars in payroll and income taxes paid directly to the State of Missouri, they spend money for lodging and food at local Missouri businesses, their media purchases support Missouri media companies, and they purchase of printing, supplies, utilities, and more in Missouri. Not only do many of these expenditures directly yield state and local tax revenues, but through the multiplier effect, these dollars are spent and re-spent within our state and local economies. Limiting campaign

contributions would significantly reduce campaign spending in Missouri and have a serious negative fiscal impact to both the state and local governments.

Economic Impact of Campaign Spending

To date, there has not been a comprehensive study regarding the fiscal impact of state elections on Missouri state and local governments. However, there is research on the fiscal impact of election spending. One such study sought to determine how campaign spending affects earnings in service sectors.[1] More specifically, the study sought to determine how income growth is affected by the presence of a primary.

The study concluded that the presence of the primary not only increases overall income, but also income in service-related sectors. The authors found a 41% increase in quarterly income growth rate in quarters where there is primary spending.

The authors point out that states with primaries tend to see between $500,000 and $19 million spending during an election cycle, which is enough to "modestly boost local income growth." Primary spending increases total income growth by 0.53 percentage points. The effect is higher in the services sector, where growth is increased by 0.76.

The study also points out that there would be a "multiplier effect" which the authors explain as follows:

> For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdressers more. This money will continue to circulate in the state's economy.

In addition, the study finds that Missouri is one of the five states with the highest amount of money spent on campaign expenditures, compared to the total contributions by state residents.

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[1] See Lessem, Rebbeca & Carly Urban, "*Local Economic Growth from Primary Election Spending,*" Working Paper, Carnegie Mellon University, 2012, attached hereto as Appendix A.

The study shows that there is more than twice as much campaign spending in Missouri as is contributed by state residents. This study finds that primary campaign spending increases income growth in a state. "[W]hen individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur)." (emphasis added).

While the Lessem & Urban study does not directly quantify the amount by which Missouri state election campaign spending stimulates the Missouri economy and the economies of Missouri local governments, it does demonstrate that there is significant fiscal impact of such spending.

There is no authority to suggest that the dollars spent at a local print shop, hotel, or restaurant by a presidential primary campaign operate differently in the Missouri economy than if spent by a campaign for a Governor, a State Senator or State Representative. And while increased election spending has a positive effect on a state's economy, drastically reducing election spending will have a correlated negative effect on the economy. We can examine data from the Missouri Ethics Commission to see the true impact of limiting campaign contributions.

A Case Study: Nixon 2012

In 2012, Jay Nixon ran a successful re-election campaign for Governor. While his campaign spent money in the years leading up to 2012, we have limited our analysis to a single year. First, we will examine contributions. In 2012, alone, Nixon's candidate committee received donations ranging from eleven cents to $500,000.00. More than 40% of the contributions to Nixon's campaign came from out of state.

Nixon 2012	
Contributions from in-state	$4,703,437.39
Contributions from out-of-state	$3,348,067.98
Percentage Total Contributions from Out-of-State	41.58%

Under the proposed initiative, candidate committees would only be allowed to accept 2,600 from any individual or entity. In 2012, Nixon's candidate committee received a total of $8,051,505.37 in contributions. If you limit each contributor to the maximum ($2,600.00) under Section 23.3(1)(a), IP, and eliminate any contributions from other candidate committees pursuant to 23.3(4), IP, the amount of contributions is significantly less -- $2,207,976.00. That is a decrease in contributions of more than $5.8 million dollars. Only 27.42% of Nixon's contributions in 2012 would have been lawful if this proposed measure were in place.

Nixon 2012	
Total Contributions	$8,051,505.37
Contributions from Candidate Committees	$42,650.00
Contributions in excess of $2,600	$5,800,879.37
Total Lawful Contributions under IP	$2,207,976.00
Total spending contributions prohibited under IP	$5,843,529.37
Percent of lawful contributions of total contributions	27.42%

The next step is to look at where these campaign dollars were being spent. According to the Missouri Ethics Commission, in 2012, Nixon's campaign spent more than $12 million dollars.[2] The expenditures are broken down by categories in the table below.

[2] Nixon had raised significant contributions prior to 2012 for the 2012 election cycle. If the proposed IP had been in effect, the loss of economic activity would be even greater.

Nixon 2012		
	Spending (Dollars)	Percentage of Total Spending
Payroll & Field Work	$745,023.80	6.09
Missouri Taxes	$63,404.72	0.52
Federal Taxes	$330,642.56	2.70
Media	$9,181,550.00	75.10
Other Missouri Expenditures	$866,243.68	7.09
Out of State Expenditures	$1,039,072.50	8.50
	$12,225,937.26	100.00

Nixon spent approximately $750,000 on payroll or paying field workers. All of this amount would be subject to Missouri State income tax. The amount of taxes the Nixon campaign paid directly to the State of Missouri is in excess of $60,000. In addition, the Nixon campaign paid more than $300,000 in federal taxes. The cities of Kansas City & St. Louis presumably collected a 1% earnings tax from a portion of that amount. The $750,000 paid to employees would have a significant impact on the economy due to the multiplier effect. Much of that money would be spent on retail sales, generating sales tax for the state and local governments. If all of the people who normally work political campaigns no longer could be employed by campaigns, there would be significant belt tightening by these individuals which would result in additional lost sales tax revenue.

Nixon also spent more than $9 million dollars on "media." All of that money went to an out-of-state media company. Still, traditionally that company coordinates all the media purchases, which presumably were with in-state media providers, as Nixon was running for Governor of Missouri. While some of the $9 million dollars could be attributable to media production, the majority of it was likely for paid radio, television, and print advertising in

Missouri. The loss of $9 million dollars in the Missouri media market in a single year is significant.

Nixon also paid more than $850,000 to other Missouri individuals or companies. Many of these expenditures were in the services and accommodations sectors. This money supports Missouri businesses and helps fund their payroll.

We have already seen that the proposed measure would have reduced Nixon's total campaign contributions by 72.58%. Assuming the proposed measure would decrease spending by the same amount, we can project what Nixon's spending would have looked like with contribution limits in place.

Nixon 2012		
	Spending (Dollars)	Projected Spending with Contr. Limits
Payroll & Field Work	$745,023.80	$204,285.53
Missouri Taxes	$63,404.72	$17,385.57
Federal Taxes	$330,642.56	$90,662.19
Media	$9,181,550.00	$2,517,581.01
Other Missouri Expenditures	$866,243.68	$237,524.02
Out of State Expenditures	$1,039,072.50	$284,913.68
	$12,225,937.26	$3,352,352.00

The proposed measure would have translated into a spending decrease of $8.87 million dollars. Again, for just one campaign for just one year. Even if you assume only 75% of the "media" expenditures affect Missouri's economy, approximately 70% of Nixon's total campaign expenditures affect the Missouri economy. In total, just one year of one campaign resulted in approximately $8.5 million dollars of expenditures in or affecting Missouri's economy. This estimate does not include the multiplier effect of such expenditures.

The Effect on the State of Missouri

According to the Missouri Ethics Commission, total expenditures by candidates that would be affected by the proposed measure were approximately $49.5 million dollars in 2012. Reducing that number by the percentage of allowable contributions we saw with the Nixon campaign (27.42%) translates to a loss of almost $36 million dollars due to the initiative petition.

Statewide 2012			
	Spending (Dollars)	Projected Spending with Contr. Limits	Lost Dollars due to IP
Payroll & Field Work	$3,016,429.52	$827,104.98	$2,189,324.55
Missouri Taxes	$256,711.09	$70,390.18	$186,320.91
Federal Taxes	$1,338,695.46	$367,070.30	$971,625.17
Media	$37,173,978.19	$10,193,104.82	$26,980,873.37
Other Missouri Expenditures	$3,507,220.86	$961,679.96	$2,545,540.90
Out of State Expenditures	$4,206,964.89	$1,153,549.77	$3,053,415.11
	$49,500,000.00	$13,572,900.00	$35,927,100.00

The loss of these payroll amounts impacts state revenues in two ways: (1) the loss of state income taxes on these amounts and (2) the loss of state sales taxes forgone. First, the amount of state income taxes can be estimated taking the total payroll figure, applying the multiplier, and multiplying by the tax rate of .06%. Here, lost income tax revenue would total $656,767.36.

In estimating lost sales tax amount, the multiplier must be applied. Previous research has suggested using a local fiscal multiplier of 5.[3] Assuming 35% of the payroll income is taxable spending, the total lost sales tax revenue would be more than $186,000 (2,189,324.55*5*.04225).

[3] A multiplier helps estimate the direct impact, indirect impact and induced impacts. Direct impact includes the payroll dollars being paid. Indirect impact represents the impact of routine consumer spending by those individuals. Induced effects are those changes in spending due to additional (or lost) employment generated by the direct and indirect effects. "Expenditure Multiplier" attached as Appendix B.

With respect to the media spending, assuming only 75% of that translates to Missouri corporate income, and applying the corporate tax rate translates into a loss of $1,264,728.44 (26,980,873.37 *.75 *.0625). Also assuming that half of the media spending is paid out to employees in salaries, there would be lost income taxes and sales taxes on that amount. There would be approximately $4,047,131.01 (26,980,873.37*.50*5*.06) in lost income tax. There would be a corresponding loss of state sales tax revenue from this loss of salary in the amount of $997,449.16 (26,980,873.37*.50*5*.035*.04225). Finally, there would be sales tax lost on the "other Missouri expenditures." Even assuming only half of such expenditures were taxable, applying the multiplier and the sales tax rate, the state would lose $268,872.76 of sales tax revenue. The total loss to Missouri state government (based on only one year of one election cycle) is at least $7.39 million dollars.

2014-032 Impact on the State	
Lost State Income Tax due to lost campaign payroll	$656,767.36
Lost State Income Tax due to lost media payroll	$4,047,131.01
Lost State Sales Tax due to lost campaign payroll	$161,873.18
Lost State Sales Tax due to lost media payroll	$997,449.16
Lost State Sales Tax on "Other Missouri Expenditures"	$268,872.76
Lost Corporate Income Tax on media companies income	$1,264,728.44
TOTAL	$7,396,821.91

The Effect on Local Government

In addition, the proposed measure would have a significant effect on local government revenue. In St. Louis and Kansas City, a 1% earnings tax is collected on income. There would be losses associated with both the lost campaign payroll and lost media payroll, in the amounts

of $14,228.42 and $87,674.35 respectively.[4] In addition, the average local sales tax rate is 3.45% in Missouri. This rate was applied to the same tax bases as described above, resulting in total lost sales tax revenue of over $1.1 million. The total loss to local governments as a result of the proposed measure exceeds $1.2 million.

2014-032 Impact on Local Governments	
Lost Earnings Tax due to lost campaign payroll	$14,228.42
Lost Earnings Tax due to lost media payroll	$87,674.35
Lost Local Sales Tax due to lost campaign payroll	$132,180.47
Lost Local Sales Tax due to lost media payroll	$814,485.11
Lost Local Sales Tax on "Other Missouri Expenditures"	$219,522.90
TOTAL	$1,268,091.25

Senate Bill 844

In 2010, the Missouri legislature passed Senate Bill 844. Legends Bank filed a lawsuit asserting three arguments (1) SB 844 violated the single subject requirement of article III, section 23 of the Missouri Constitution, (2) SB 844 violated the original purpose requirement of article III, section 21, and (3) SB 844 violated the First Amendment because it bars political action committees from receiving money from Missouri state-chartered banks but allows political action committees to receive money from other entities and individuals. *Legends Bank v. State*, 361 S.W.3d 383, 385-386 (Mo. banc 2012). The trial court found that SB 844 violated the single subject requirement and that section 130.031.13 violated the First Amendment. *Id.* at

[4] In 2011, the population of St. Louis and Kansas City as a percentage of total state population was 12.998% according to the U.S. census bureau. Applying this percentage to the total payroll statewide generates an estimate of payroll that would be subject to the earnings and income tax. This estimate will likely underestimate the actual fiscal impact because the earnings tax is collected from all city residents and all non-city residents who work within the city limits.

386. The Supreme Court did not reach the First Amendment issue because the finding that SB 844 violated the original purpose requirement of the Missouri Constitution was dispositive. *Id.* at 387.

The proposed initiative petition contains a provision identical to the provision that was the subject of the First Amendment challenge in Senate Bill 844 (IP, Section 23.3(12)). It is highly likely this proposed measure will be challenged in court and the state will be forced to expend significant resources in defending the suit. This figure should be added to the one-time costs for the state.

Conclusion

The proposed measure would have a significant negative economic impact on both the state and local governments in Missouri. In just one year, election spending amounted to almost $50 million in Missouri. The proposed measure would drastically reduce election spending. State and local governments would lose income and earnings tax revenue and sales tax revenue, not just on the amount of decreased election spending, but much more, due to the multiplier effect. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. We submit the following proposed statement of fiscal impact:

> Annual state government revenue will decrease by at least $7.39 million per year. It is estimated this proposal will also increase state government costs by at least $127,000 annually and result in one-time costs of about $50,000. Annual local government revenue will decrease by at least $1.2 million per year.

Local Economic Growth from Primary Election Spending*

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December 4, 2012

Abstract

This paper asks how government and private consumption spending affect earnings in service sectors. To do this, we exploit a natural experiment, using an exogenous form of consumption spending–the money spent while campaigning for a party's Presidential primary nomination. To answer these questions, we create a novel dataset combining the date each state held its primary from 1976-2008, the date in each election cycle in which only one candidate remained, and quarterly state income by sector. Hosting a primary election increases total income, particularly in the accommodations sector. These results remain consistent when using data on primary campaign expenditures across states in the 2004 and 2008 elections.

JEL codes: D72, H30

*The authors acknowledge helpful comments from Dennis Epple, Amit Gandhi, Ken Goldstein, Andrew Reschovsky, John Karl Scholz, Alan Sorenson, and Chris Taber. All remaining errors are our own.

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Appendix A

1 Introduction

Government expenditures have been found to increase employment and income.[1] However, this literature restricts itself to studying investment expenditures in the form of education, health, military, and infrastructure spending, leaving the question, "How does added consumption spending affect income?" unanswered.[2] This paper uses a natural experiment to estimate the relationship between consumption spending and short-run income growth by exploiting exogenous variation in the duration and ordering of Presidential primary campaigns.

In 2008 alone, these campaigns spent $348 million across states on hotels, meals, rental cars, and other campaign expenditures.[3] This figure does not include the amount spent by media covering the race, personal in-state expenses of staffers, or additional funds individuals outlay when coming out to witness the spectacle of a primary race. We use this exogenous spending to determine the short-run income growth when money enters a state economy.

Primary elections are held sequentially by state and each election cycle varies in duration due to changes in the competitiveness of elections. In some years, there is no primary in many states, as the nomination is determined long before each state has its turn to vote for a nominee.[4] For example, in 2004 Senator Kerry clinched the Democratic nomination in March, whereas in 2008 President Obama did not win the nomination until June. In

[1] See for example, Wilson (2011), Shoag (2010), Serrato and Wingender (2010), Chodorow-Reich et al. (2011), Ramey (2011), and Ramey (2011a).

[2] To a certain degree, this question has been addressed in the literature on the economic impact of mega-events such as the Superbowl, Presidential Nomination conventions, and the Olympics, (See Matheson (2006) and citations therein). However, it differs in certain respects, most importantly in that we have a stronger identification stratedy. In primary elections, there is ex-ante uncertainty as to whether or not a state will be reached by primary campaigns, whereas mega-events are planned far in advance. Mega-events allow an area to anticipate additional consumption expenditures and internalize the benefits by increasing up front costs. However, the value of consumption spending in a primary is unanticipated ex-ante and the variance in spending between hosting and not hosting a primary is high, deterring businesses from internalizing the benefits prior to the event. Second, candidates campaign in areas to reach the maximum number of pivotal voters not in the most desirable tourist locations, so it is unlikely that crowd out of the local tourist sector occurs in this setting as in the prior vein of literature.

[3] Authors' calculation based on CRP (2011).

[4] We consider the nomination determined once there is only one candidate remaining in the contest.

particularly long primary elections, local businesses in states that are not normally exposed to primary campaigns receive an exogenous increase in revenue. In addition, many states change their position on the primary calendar between election cycles.

This paper first establishes the exogeneity of campaign spending and economic indicators. Next, we exploit the variation in whether or not a state receives campaign spending in each year to test how this increased spending affects local economies. Specifically, we study how income growth is affected by the presence of a primary in a given state and quarter.[5]

To conduct this analysis, we create a novel dataset of primary and caucus dates from 1976-2008, where we determine if a state held a primary based on the scheduled primary date and the date in which only one candidate remained in each party's election. We pair this primary elections data with quarterly state-level and sector-specific information on personal income levels from the Bureau of Economic Analysis (BEA).

We find that the presence of a primary increases overall income, as well as income in service-related sectors. From 1976-2008, income growth increased by 0.53 percentage points in states with primaries, compared to an average income growth of 1.3 percentage points per quarter. This implies about a 41% increase in the quarterly income growth rate in quarters when there is primary spending. Our results are robust to controlling for factors related to the amount of spending as well as to including state fixed effects. We verify these results using data on campaign expenditures for 2004 and 2008 from the Center for Responsive Politics.[6] In this setting, we find that doubling campaign expenditures increases overall income growth by about 0.05 percentage points (or hosting a primary results in a 35% increase in quarterly income growth rates), and this effect is particularly pronounced in the accommodations sector.

[5]The idea that election outcomes could affect the economy is not new. Snowberg et al. (2007) use prediction market analysis of elections from 1880-2004 to show that electing a Republican President raises equity valuations by 23%. Knight (2006) shows that policy platforms in the 2008 Presidential general election were capitalized into equity prices. No one has previously asked how the act of campaigning can affect the economy.

[6]Data on campaign expenditures are only available for these two years.

We appeal to two distinct literatures in this paper. First, the existence of primary elections provides a new environment in which to study local economic development, through exogenous shocks to consumption expenditures. Recently, scholars and policymakers have expressed interest in the American Recovery and Reinvestment Act (ARRA) spending. Wilson (2011) and Chodorow-Reich et al. (2011) use instrumental variable strategies and find that one new job created costs $125,000 and $26,300 per year, respectively.[7] Asking a similar question Serrato and Wingender (2010) find that an additional job costs $30,000 per year, using an instrumental variables strategy and data on federal investment spending. Similarly, Shoag (2010) uses the idiosyncratic component of state-managed defined benefit pensions to predict government spending. He finds that $35,000 of spending generates one additional job.

In comparison to the papers just mentioned, we avoid the natural endogeneity concern that spending is often allocated to states in the most need of growth.[8] Candidates campaign as to maximize their chances of winning the election, which generally means following the primary calendar. Candidates campaign in states sequentially, and tend to not visit a state until the primary is upcoming. One reason for this is that individual victories create momentum to propel a candidate to his next contest.[9] In addition, candidates also have a disincentive to over-spend in the primary, as they want to save any potential funds for the general election battle, conditional on winning the nomination. For these reasons, the optimal strategy for candidates is to campaign sequentially, meaning that the allocation of funds will depend on the primary schedule and will be exogenous to local economic conditions.

In addition, our paper studies the effect of spending on a different set of sectors than is normally assessed. Most of the ARRA funds were centered around Medicaid and

[7]Chodorow-Reich et al. (2011) find that the jobs resulting from Medicaid spending are concentrated in the state and local government, health, and education sectors.

[8]This is particularly true in the cases of the ARRA spending, though Knight (2002) shows that this can also be true in the transportation sector.

[9]See Abramowitz (1989), Abramson et al. (1992), Mutz (1998), Adkins and Dowdle (2001), Callander (2007), Strumpf (2002), and Klumpp and Polborn (2006) for more on the necessity of momentum in primary contests.

education, and other federal spending initiatives focused on infrastructure investment, energy efficiency, unemployment assistance, and state and local government stabilization (111th Congress 2009). On the other hand, primary spending likely benefits the local economy in the service-related sectors. Another unique feature of our work is that transfers do not entirely come from the federal government, allowing us to study how increases in consumption expenditures in the form of transfers can affect income growth. Primary campaigns are sometimes funded through federal matching, but candidates vying for their party's presidential nomination rely on money from individual donors and from Political Action Committees.[10]

Second, while we establish that the duration of a primary and the time in which states changed their primary dates are uncorrelated with economic indicators, our paper adds to the literature investigating the incentives for states to hold early primaries.[11] States early in the primary process are presumed to have a disproportionate effect on candidate selection by building candidate viability, attracting donors and volunteers, and creating momentum (Abramowitz 1989; Abramson et al. 1992; Mutz 1998). Some work examines the policy benefits of early contests. Taylor (2010) finds no effect, while Knight and Schiff (2010) find that early contests had a 20% greater influence over candidate selection than later contests in 2004.[12] Similarly, Malhotra and Snowberg (2011) find that the order mattered less than pivotal, or competitive, primary contests in 2008. Theoretical work demonstrates that voters can use early contests as cues in determining their vote choices.[13] This paper is the first to investigate the potential economic benefits of having an early

[10]See Section 6 for more on federal funding percentages.

[11]States have a demonstrated interest in holding early primaries. For example, in 2008 Michigan and Florida moved their primaries to January, and this was rejected by the DNC. Democratic candidates agreed to refrain from campaigning in these states, and the delegates were not counted in the candidates' totals. This did not deter Florida from moving its primary up in the order again in 2012, which was this time rejected by the RNC, costing the state half of its delegates (Grice 2012). Thus, moving a primary contest too early can be costly, yet states are still attempting to change their primary dates.

[12]Taylor (2010) uses state procurement data from 1984 to 2004 to show that primary order matters only in competitive nominations when the victorious candidate won that states contest. Knight and Schiff (2010) use changes in prediction markets over the election to identify influence.

[13]See Morton and Williams (2001), Callander (2007), Serra (2011), and Ali and Kartik (2006).

nomination contest.[14]

The remainder of the paper is organized as follows. Section 2 describes the construction of the dataset. Section 3 provides descriptive statistics and motivates our identification strategy. Section 4 explains our empirical strategies and presents our findings. Section 5 discusses the source of campaign funds, and Section 6 provides concluding remarks.

2 Data

We combine institutional details of primary races dating back to 1976 with state-level personal income data from the Bureau of Economic Analysis (BEA), creating a comprehensive Presidential primary and local economic database. In the next 3 sub-sections, we explain how we collected these data. For more information on the specifics of the variables created, including summary statistics, the source of each variable and the calculation of each variable, see Tables 8-10 in Appendix A.

2.1 Primary Information

We hand-collect a thorough database of the dates of each primary or caucus in each state starting from 1976, which is the first year the Democratic National Committee (DNC) and Republic National Committee (RNC) held conventions in their current forms, and ending in 2008.[15] We obtain this information from the Green Papers (for primaries), as well as Frontloading HQ (for caucuses), and confirm these with state election boards when the two are not consistent. When a state's delegates are determined by only state party officials (and not in caucuses or primaries with individual voters), we count this as

[14] A parallel literature looks at the effects of the primary structure on general election outcomes. The primary process may constrain candidates from converging to the position of the median voter, as they will take on more extreme positions to satisfy primary voters who are less moderate than the general population (Geer 1988; Norrander 1989). Malhotra and Snowberg (2011) study the effects of early contests more broadly, including candidates' difficulties of returning to the center in the general after trying to attract primary voters.

[15] This means that individual voters, not party elites, began selecting candidates in each state. The candidate with the most delegates earned the nomination at a national convention.

a case where the state did not have a "primary." In cases where states hold a "beauty contest" nomination, where individual voters choose their favorite candidate but there are no delegates at stake, we count this as having a "primary," as some candidates find it important to win a symbolic victory in these states to gain momentum.[16,17]

Next, we collect information on the date at which the nomination was clinched for each party in each year. We award a candidate the nomination when he is the only candidate left in the contest, meaning that the primary campaigning has ended. This sometimes occurs months before the convention date. Table 1 contains the dates at which candidates clinched the nominations over time. In cases where the incumbent was not challenged in the primary, such as 1984 for Ronald Reagan, we code the primary for that party as "no primary."[18]

Additionally, in certain situations there could be spending for the primary and the general election at the same time. For example, in 2004, when President George W. Bush was the incumbent, he immediately began campaigning for the general election because he had no competition in the primary. During this same time period, Democrats were competing for their party's nomination. Likewise, in 2008 Senator McCain started to campaign for the general election once he clinched the nomination in March, whereas the Democratic primary continued for three additional months. We want to be sure that we are measuring the effect of primary election, not general election, spending. Thus, we collect data on the battleground states for each election cycle, asserting the conventional wisdom that candidates only campaign in battleground states in Presidential general elections (Stromberg 2008; Ashworth and Clinton 2007; Huber and Arceneaux 2007).[19]

[16]States holding these "beauty contests" usually choose their candidate based on conventions and state party officials' decisions. After 2000, there are some instances where there were no delegates at stake, after a state had moved up in the primary process and one of the national committees considered this unconstitutional , i.e. Michigan and Florida in 2008. These two states still had campaigning from the Republicans, so we include them in this context alone.

[17]The primary dates by party for each state and year combination from 1976 to 2008 are available upon request.

[18]All incumbents do not have the luxury of having no opposition in the primary election. For example, President Carter's low approval ratings gave the DNC justification to push other candidates, including Edward Kennedy, to challenge him in the primary contest.

[19]See Section 2.3 for more on spending.

We label a state as a battleground state if the difference in the likelihood the Democratic candidate wins and the Republican candidate wins is ever within 10 percentage points in Intrade prediction markets or polling data (specifically, pollster.com and David Leip's polling report). In earlier elections when polls are more sparsely available (i.e., 1976-1992), we instead look at the races where the candidates' end vote shares were within 10 percentage points of one another.[20] Finally, a state can only be labeled as a battleground state if 1) the election cycle has started and 2) the primary contest in at least one party has been completed (i.e., only one candidate is remaining).[21]

2.2 Income

The BEA reports total personal income in each quarter and state, for each sector of the economy. For the purpose of this paper, we refer to total earnings (excluding government transfers) as total income. We transform this into per-capita values using population data from the US census. In addition to total income per capita, we focus on the sectors where we would expect large effects from primary spending, which are mostly service related sectors. Accommodations and retail are two sectors we focus on, in that the visiting campaign staff and media will need to stay in hotels and make purchases during the campaigns. The accommodations and retail sector accounted for about 5% and 9% of total income in 2008, respectively.

The BEA data is divided into 2 periods: 1974-2001, and 1990-2009, and the sector definitions changed across the two periods. We focus our analysis on the services sector, particularly food and accommodations, because that is where we expect to see the largest effect. In the data from 1974-2001, the BEA only reports total income in the services sector. However, in the 1990-2009 data, they divide services into different groups, including food and accommodations, which we focus on. We therefore do the analysis separately

[20] A list of each state and the years in which the state was a battleground in competitive in the general election is shown in Appendix B.

[21] Conditional on hosting a primary in a given quarter, the probability that a given state is labeled a battleground state in the same quarter is less than 39 percent.

for each period due to these data limitations.[22]

2.3 Campaign Expenditures

We obtain campaign expenditures data for the 2004 and 2008 primary election cycles from the Center for Responsive Politics (CRP), which collects and compiles data from the Federal Election Commission.[23] These data contain information on each expenditure made in House and Presidential races by campaigns, Political Action Committees (PACs), and state parties, where each expense contains a date, location (down to zip code), and information on what the expense entailed (i.e. hotel). We narrow this dataset to include only expenses made in pursuit of the primary nomination by the Presidential candidate's official campaign, i.e. "Barack Obama for President, 2008." We do not include PAC spending as it is difficult to understand for which campaign the PAC is spending its funds (i.e. Presidential or House) in the data.

These data also include information on the division of the campaign in which the expense was made. We create two different measures of expenditures. Campaign expenditures consist of all money spent by the candidate and his direct staff on travel, hotel rooms, and meals, as well as local polling, Get-out-the-Vote campaigns (GOTV), and campaign events. In addition, campaign expenditures include what the campaign calls "administrative expenditures," which includes all money spent on the offices within a state and its staffers. This mostly consists of spending on catering for meetings, rent, utilities, cable, and internet in campaign offices, administrative supplies (associated largely with IT costs), and staffer travels (rental cars, housing, flights, etc.). Total expenditures include all expenses listed under our campaign expenditures measure, as well as money spent on broadcast, radio, and print advertising, along with other media-related costs (i.e., media consultants, production costs of advertisements, and miscellaneous costs related to getting

[22]We attempted to aggregate the 1990-2009 data to get a total measure of income in the services sector. Since the years 1990-2001 are included in both datasets, we can compare to see how similar the two measures are. They are very different, which is why we could not use this aggregated services income in the same analysis as the 1974-2001 services data.

[23]See CRP (2011) for more information on the dataset.

out the message).

The total expenditures are likely to include some expenses that do not directly affect a state's local economy at the time of a primary, though they are expenses made for the primary campaign. For example, the production of an advertisement run in Iowa could be done in California, and thus included in this measure. The production could also be done in Iowa, however, and it is not feasible, given the data, to distinguish the two. Thus, for the remainder of the paper, we choose to focus on the campaign spending measure in favor of the total expenditures measure.

We expect that campaign expenditures are a good proxy for the candidate's travel and the campaign's direct expenses. However, the administrative portion of the campaign expenditures are likely a lower bound for the amount of money staffers spend in each state during the campaign. For example, if campaign staff goes to a restaurant in the evening, this will not be covered as a campaign expense, especially if the meal includes alcohol. This spending amount is a lower bound for total exogenous spending in the area, since national news and media crews also tend to follow and cover the primary schedule state by state. Even with this lower bound, states with primaries tend to see between one half a million and 19 million dollars in spending over an election cycle. Comparing this to the median total income in the retail and accommodations sectors, 7.14 and 3.3 billion respectively, this is still enough money to modestly boost local income growth.[24]

3 Descriptive Statistics

In this section, we first argue that the timing and existence of a primary campaign is exogenous to local economic growth. We next look at the campaign expenditures data from 2004 and 2008 to establish that there is more spending during primary campaigns.

[24]If we instead use total expenditures instead of campaign and administration expenditures in the analysis that follows, our results are slightly smaller in magnitude, though they remain substantively similar to the estimates provided. These results are available upon request.

3.1 Exogeneity of Primary Campaigns

The identification strategy in this paper comes from the orthogonality of primary campaign spending in a given state and the state's local economy, where the nature of primary contests gives candidates an incentive to campaign sequentially. Since this money is not targeted to states with the most need, the shock to consumption expenditures generated from primary campaign spending is exogenous to income levels. Iowa's primary is always first in the election cycle, so the state should expect the millions of dollars spent in local businesses by the Presidential campaigns, media crews, and the ceremony of the primary election. Since the natural experiment fails in this case, we drop all states that have a primary in every year in our analysis. Other states, however, experience more variation in regards to (1) whether or not any money will be spent in primary campaigns and (2) how much money will be spent. This variation comes from two main channels.

First, the duration of any primary campaign is unknown ex ante. While some primary campaigns leave only one candidate in each party after only a few months (i.e. in 2004 when Senatory Kerry clinched in March), other election cycles (i.e. 2008) carry on until June, reaching every state. Figure 1 shows the variation, by party, of the number of states reached by campaigns in each election cycle. This shows significant fluctuations in the number of states that have primary elections each year, particularly in Republican primaries. Alternatively, Figure 2 plots the duration of primary campaigns over time, where the duration is defined as the number of days from the first primary until only one candidate remained in the contest.[25] In general, the early contests from 1976-1992 took longer to determine each party's candidate.

Figure 2 additionally plots the average real GDP per capita in the US over time, reassuring us that the duration of primaries is uncorrelated with the state of the economy.[26] To provide a specific example of the changes in primary campaigning between years, we

[25]Since there are potentially 2 primaries in each state and year, there is a duration for each contest. We plot the length of the longer primary in each year.

[26]When regressing real GDP per capita on the duration of primaries, we find no statistically significant relationship between the two variables.

show the changes in primary status by states between the 2004 and 2008 elections. Figure 4 shows which states switched primary status between 2004 and 2008. Comparing just these 2 election cycles, we see that there are many states that had primaries in 2008 but not 2004, due to both the fact that there was no Republican primary in 2004 and the length and competitiveness of the 2008 Democratic primary.

Second, the ordering of primaries across states has changed drastically from 1976 through the present day. Although national parties have some influence on the timing of primaries, the decisions are ultimately made by each state. There has been significant movement in the primary calendar over time. The change in ordering also allows for some states to experience campaign spending in some election cycles and not others. In addition, if a state's primary moves to a day in which many other states hold their contests, this may lead to a reduction in campaign spending in that state. This gives us variation in both the existence of and amount of spending by primary campaigns.

The argument in our paper implies that states should have an incentive to move their primaries earlier in the calendar in order to gain economic benefits. If this were true, then we could no longer argue that primaries are exogenous. However, we do not believe that this is the case, due to the lengthy process involved in changing primary dates. In order for a state to be able to change its Presidential primary date, the state legislature must propose a bill, which in most states is an extremely lengthy process, where less than 5-10% of bills are passed.[27] The lengthy process creates difficulty for states to change their date in a timely fashion, making it unlikely that the primary date will be switched (and reached) when the state's economy is at its worst. In addition, the state and national party officials must approve the change in date for the state's delegates to count in the nomination process.

Furthermore, even though this change of date is under the authorization of state

[27]Most states have dates like the following from Montana's Constitution: 13-1-107. Times for holding primary elections. (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state (The Constitution of the State of Montana, 2011).

elected officials who have an interest in state policy, a state's change in ordering is seemingly uncorrelated with a change in economic indicators. To demonstrate this, in each year we split the states into two groups: those who changed their primary date from the previous election, and those that did not.[28] Figure 3 plots the average GDP growth in both groups over time.[29] The graph also shows the number of states that changed their primary date in each year. This figure shows no systematic difference between the GDP growth in both groups over time.[30] We also see that there are a large number of states that change their primary dates each year, showing that this provides an important source of variation.

An additional literature on vote-buying suggests that politicians can adjust funds on a state-by-state basis (See e.g., Levitt and Snyder (1995); Fleck (2008)). If government funds are correlated with campaign spending, this could additionally confound our effect. However, the ability of politicians to adjust the allocation of government funds quickly on a state-by-state basis is limited. For example, Senator Kerry would have trouble providing a voting record that appeased each state he visited in his Presidential primary campaign surrounding the time of that state's election. This makes the approach taken in this paper more compelling than studies that focus on differences in policy spending over time as exogenous variation.

3.2 Primary Spending

In this paper, we study whether the existence of a primary increases local income. For there to be an effect, there has to be more campaign spending in states with primaries. To verify that this is true, we use data on campaign expenditures from the 2004 and 2008 primary elections. Table 2 shows the distribution of spending for primaries by quarter,

[28] We label a state as having changed their primary date if the date of the primary made a substantial change (i.e. more than 2 weeks) such that it took an initiative within the state's Board of Elections and changed the ordering of the primary schedule.

[29] The average GDP growth takes percentage growth of GDP between two years of each state (in each group) and takes the average of those observations by year.

[30] A t-test shows that the difference in the means is not statistically different than 0.

where states with primaries in the current or next period have higher spending than areas without primaries. We see that spending increases not only increased during the quarter of the primary, but also in the quarter before the primary. Early spending could occur because candidates campaign in some states for an extended period of time, especially when the race is on the cusp of two quarters.

Next, we look at the changes in spending in states as they change primary status over the years, to ensure that having a primary leads to increased spending. In general, we see that states that did not have a primary in 2004 and did have one in 2008 tended to have more spending in 2008. Figure 4 shows the states that held a primary in 2008 and not in 2004, and Figure 5 shows the percentage change in expenditures between the two election cycles. States such as Pennsylvania and Utah, which were reached in the lengthy Democratic campaign in 2008, had over 20 percent more primary spending in this election cycle than they did in 2004, when the process culminated before the state was reached. There is also an increase in spending from 2004 to 2008 in early states like Iowa, South Carolina, and New Hampshire, where the increased number of candidates and the fact that both parties held primaries increased the spending in those states. Conversely, the state election boards in Michigan and Florida moved their Presidential primary contests up, and set the elections in January 2008. The DNC challenged these moves, and in turn, Democratic candidates opted to not campaign in these states. Thus, spending in these states actually decreased from their later primary day in 2004.[31] Overall, these figures show variation in spending in states, depending on whether or not there is a primary in that year. This supports our argument that there will be more spending in states with primaries.

Using the spending data and the primary dummies in 2004 and 2008, we estimate the

[31]There are cases where state boundaries provide a neighboring state with additional spending when there is not a primary in that state. For example, New Jersey benefited from New York's early primary on a day independent of all other primary contests in 2004. This is because candidates spent money renting cars, purchasing hotel rooms, and eating some meals in New Jersey, though they were officially campaigning in NY. When compared to 2008, even though NJ held its own primary, it did this on a day when many other states also held primaries, as did NY. This made spending higher in the previous election cycle.

relationship between the existence of a primary and spending growth, while controlling for the same factors we take into account in our later analysis. We first construct a set of control variables we expect to be correlated with the intensity of spending. The structure of the primary calendar is such that there is often one day with many of the elections, typically called "Super Tuesday." We control for whether or not an election in a state is on this day each year.[32] Another possibility is that in states with late primaries, early spending for the general election when one party's nominee has been determined and the other has not could falsely lead to higher levels of income growth, especially in battleground states. To account for this, we control for whether or not a state is a battleground state in periods after one party's candidate has been chosen.[33]

The first column in Table 3 shows that the existence of a primary more than doubles spending growth in that quarter, when compared to states without primaries. Primary spending growth is lower in "Super Tuesday" states when compared to states with primaries on other days, as "Super Tuesday" elections make it hard for time-constrained politicians to campaign everywhere. In addition, battleground states tend to have significantly lower spending growth than non-battleground states. This result is not surprising since our dependent variable is only primary spending growth, and does not include money earmarked for the general election.[34] In addition, competitive states are always labeled as "battleground" in the third quarter of the election year, or the height of the general election. This is the time in which primary growth is most likely to be negative, or lower than the previous period. If we add state level fixed effects to this model, as in Column (2), we see that primary campaigning still more than doubles spending growth when com-

[32]Our "Super Tuesday" control is defined as the day each year that has the most primary elections in a given state. The list of states with primaries on "Super Tuesday" in each year is shown in Appendix B. "Super Tuesday" is always reached, so it is an interaction term between the primary dummy and having an election on the given date.

[33]We could include a control for whether or not a state held a competitive primary. For example, in President Bush's home state of Texas, he may have already been a favorite and not needed to campaign. However, enough states have a proportional share of electoral votes, so candidates still receive votes towards the final count if they do not win a majority in a given state.

[34]The probability of being in a battleground state in a given quarter conditional on having a primary in the same state, quarter is less than 36% in this sample.

pared to a period when the state did not have a primary. Hosting a primary on "Super Tuesday" lowers this substantially, as does being in a battleground state.

4 Empirical Analysis

In this section, we estimate the effect of primary spending on local economic development. We first test how the existence of a primary before the nomination has been determined affects changes in income growth from 1976-2008. We then verify these results using data on campaign expenditures across states in the 2004 and 2008 elections.

4.1 Existence of a Primary

We assume that a state's income in a given quarter depends on whether or not there is a primary in a given time period, a set of control variables, and state and year fixed effects. Let P_{it} be a dummy variable indicating whether or not there is a primary in state i at time t. Denote the log average per capita income in sector s in state i at time (year) t as y_{ist}, state fixed effects as μ_{is}, time fixed effects as γ_{st}, control variables as X_{it}, and the error term as ϵ_{ist}. Then we can write

$$y_{ist} = \beta_{0s} + \beta_{1s} P_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist} \tag{1}$$

Taking first differences of Equation (1), the state and year fixed effects drop out:[35]

$$\Delta y_{ist} = \beta_{1s} \Delta P_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \ , \tag{2}$$

where $\hat{\epsilon}_{ist} = \Delta \epsilon_{ist}$.

We estimate equation (2) and look at how changes in the primary dummy variable

[35]The year fixed effects do not drop out in every period. Since we are using quarterly data, as we go from the 4th quarter of one year to the first quarter of the next, the year fixed effects technically will not difference out. However, since they would only be identified off of one quarter per year, we chose to drop these year fixed effects.

affect income growth in different sectors. Identification in this specification comes from comparing states with primaries to those that do not have primaries. We define a state as having primary spending if there is a primary in the current quarter or in the next quarter, acknowledging that candidates sometimes spend an extended amount of time campaigning in a state.

We drop states that have primaries in every election year, as it is hard to argue that the existence of a primary is exogenous in states that anticipate primary spending each cycle. Perfect foresight of primary spending may allow individuals to internalize more upfront costs, where business that normally would not be open in a given season may change their behavior since they know primary campaigns will spend there with certainty each cycle. These states invalidate the natural experiment present, where it is necessary to maintain uncertainty in the timing and duration of primary elections. Dropping these traditionally early states leaves us with a sample of states for which there is variation in whether or not there is a primary, so each election cycle contains uncertainty as to whether or not they will receive primary spending.

We present the unconditional effects of hosting a primary. Since the existence of primary campaigns are exogenous to the state of the economy, the unconditional effects of campaign spending will be unbiased. In this specification, we still include quarter fixed effects to control for seasonal fluctuations in income. We control for variables that may affect the volume of spending, such as having a primary on "Super Tuesday" and whether or not the state was a battleground in the given period.

In Table 4, we show results for total earned income, as well as in sectors where we would expect the largest effect from primaries: accommodations, services, and retail trade. We expect accommodations to be particularly affected; however, this measure is not available for the early data, so we instead use the services sector for the first time period. The data from the later time period shows that accommodations is the service sector most affected by primary spending. We expect that primary campaign spending will directly affect the accommodations sector, as increased revenues from hotel room, catering, food services,

and additional expenses the campaigns incur flow straight into this sector. The definition of retail trade changed slightly between the two periods provided. However, since we are looking at growth, we pool the observations from the two time periods. To account for this difference, we include a dummy variable in the estimation to account for which time period the data is from.

The first three columns of Table 4 show that primary spending increases total income growth by approximately 0.53 percentage points, where the average state income growth reported in Table 8 in Appendix A is 1.3%. Primary spending increases income in the services and accommodations sectors by 0.76 and 0.47 percentage points, respectively (where the mean growth rates are 2.1% and 1.1%, respectively). For retail trade, we see a positive effect of primary spending on income levels, though this is not statistically different from zero.

Table 4 also shows that having a primary on Super Tuesday decreases the overall effect in Columns (1)-(5), so much so that they negate any positive effect of hosting a primary. This is expected because candidates devote less resources to each state if there are multiple primaries on the same day, as shown in Table 3. We do not find a statistically significant effect of being a battleground state. The timing is set such that states count as a battleground starting, in the calendar year of the election, when one candidate in either party has clinched the nomination. When an incumbent is not challenged in a primary, a state that is competitive in the general election is classified as a battleground state starting in the first quarter of the election year. However, the most intense campaigning occurs during the 3rd quarter of each election year. When we only allow states to be classified as battleground states in the third quarter, the battleground dummy variable is positive and statistically significant. This implies that income growth increases in battleground states later in the election cycle, possibly due to spending for the general election.

In an alternate specification, we also include state fixed effects when estimating Equation (2). In the initial setting, the state fixed effects dropped out of the regressions because we study income growth. In this next specification, we allow for state fixed ef-

fects in growth rates. This changes the identification of the dummy variable for primary elections. Without state fixed effects, the coefficient on the primary election variable was identified by comparing the income growth in states with and without primaries. By including state fixed effects, the coefficient is identified by comparing income growth in a given state when the primary variable changes values. The results with state fixed effects are in Table 5. This does not substantively change the results.

This increased income could come through increased labor force participation, or an increase in hours worked (as well as overtime pay) for current workers. Using data from the Bureau of Labor Statistics on the number of workers in each sector on a monthly basis, we find no effect of primary elections statistically different from zero. This implies that our results are due to increased hours worked for current workers in the sector.[36]

4.2 Expenditures

Next, we verify the results in the previous section with data on the amount spent by campaigns in each state during the 2004 and 2008 primary elections. This setup allows for an extra source of variation resulting from differences in expenditures across states and time.

Denote logged spending in a state as e_{it}, and y_{ist} is defined identical to Equation (1).[37] Then

$$y_{ist} = \beta_{0s} + \beta_{1s} e_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist}$$

Taking differences,[38]

$$\Delta y_{ist} = \beta_{1s} \Delta e_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \tag{3}$$

[36] In these results, we use the same specification as above. These results are available upon request.

[37] If we instead use per capita spending, our results are almost synonymous. This is because there is little change in state population between quarters. These results are in Table 13 in Appendix C.

[38] The year fixed effects will not difference out as we go from the last quarter of each year to the first quarter of the following year. However, since they would only be identified off of one quarter per year, we choose to drop the year fixed effects.

The parameter β_{1s} tells us how changes in spending growth affect income growth in each sector. This provides a more precise estimate of the effect of spending growth on income growth since we also have variation in spending in each state and quarter. Our identification largely comes from states that were reached in the 2008 election but not in 2004. However, we argue that the amount spent is orthogonal to a state's economic growth, as even if a state is consistently reached (and is reached in both 2004 and 2008), there is still uncertainty about the degree of spending in each year. For example, some years provide competition between candidates in both parties, while others have competition from only one. In addition, there is large variation in the number of entrants within each party between years. At times, favored candidates do not win the early states, turning the tide of the election, thereby increasing the competitiveness. Changes in primary dates affected the spending in some states as well. For example, New York moved its primary in 2008 to an election day with other states, causing a decrease in its expenditures between the two cycles. Thus, our variation comes from states that had both increased and decreased expenditures over the two election years. Finally, we exploit variation in spending over the course of the primary election cycle, where earlier contests with more competitors tend to exhibit more spending. As in the previous section, we drop the states with early primaries (Iowa, New Hampshire, and South Carolina), which have primary elections in every year.[39]

We use quarterly data on campaign expenditures in a given state to estimate Equation (3), and are interested in the coefficient on the growth rate in expenditures, β_{1s}. In this analysis, we use data from 2003-2004 and 2007-2008. We continue to control for battleground status of the state, though we no longer control for different attributes of the primary, as the spending amounts will capture the existence of a "Super Tuesday."[40]

Table 6 reports the coefficient and standard errors for β_{1s} in Equation (3), which is

[39]If we restrict the sample further to include only the states that change primary status between the two election cycles (or only estimating the extensive margin), our results remain substantively similar, though our standard errors become slightly larger.

[40]If we additionally control for lagged spending growth or the "Super Tuesday" dummy variable, β_{1s} is not statistically different from the specification shown in Table 6.

the coefficient on the growth rate in expenditures. In order to generate results that are comparable to those found in Tables 4-5, we estimate what the increased economic growth from having a primary. To do this, we use the results from Table 3, which show that having a primary more than doubles campaign spending in a state (or over 100%). We find that campaign spending modestly increases quarterly growth, where doubling campaign expenditures between quarters results in a 0.054 percentage point increase in a state's total income from the previous quarter, adjusting for seasonal increases in income. We see the largest effects in the accommodations and retail trade sectors, where doubling expenditures results in a 0.13 and 0.061 percentage point increase in income, respectively. We find larger effects in the accommodations sector than we do for total income. Comparing these to the mean income growth rates for the time period in Table 8 in Appendix A, we find that these results are about a 35% increase in total income, making these results consistent with the previous analysis.

The results for the retail trade sector are slightly different from the previous results using a primary dummy variable, as they are now statistically different from zero. While this sector has smaller growth rates on average when compared to the other two sectors, the increased growth in the later period may in part be influenced by the many technological and startup needs of the campaign offices' expenses that happened from 2004-2008 moreso than in previous periods. In addition, given a larger effort of grass roots campaigning from 2004-2008, staffers likely spent more time in less populated areas, allowing them to promote local economies more than in the longer time period. The battleground dummies again appear to slightly decrease income growth.

Similar to the previous section, we also include state fixed effects, where the comparison now comes from changes in spending growth within the same state. This is shown in Table 14, and does not substantially change the results. In addition, we replicate the results using the primary dummy variables from the previous subsection on this subsample. These results, in Table 15 in Appendix C, are consistent with the results in Tables 4-5.

Theoretically, these expenditure results can be used to calculate a multiplier, which

would give the effect of additional spending on income levels. We expect that a multiplier effect will exist if service sector employees are receiving higher wages and exuding higher levels of spending. For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdresser more. This money will continue to circulate in the state's economy. Calculating this multiplier would provide a comparison to the traditional literature on fiscal stimulus multipliers, given that this multiplier would reflect previously unstudied sectors. However, we do not have a complete measure of the amount spent during primary campaigns. Our measure of spending is a lower bound on the actual amount of additional spending brought forth by a Presidential primary campaign, and does not include spending by the media, individual spending by staffers, or the additional expenditures put forth by a state's residents in order to engage in campaign events. For simplicity, we will refer to these additional expenses as "media spending" for the remainder of the discussion. This mis-measurement of total spending makes it hard to calculate accurate multipliers.

We assume that media spending and our expenditure values are highly correlated,[41] which implies that our estimate of β_{1s} will not be biased. However, this makes it difficult to estimate the multiplier. The multiplier tells us how much total income would grow with an additional $1 of spending. In our setup, an additional $1 of primary spending does not just account for a $1 increase in spending, as it would also be associated with an increase in media spending. Because we do not have an accurate measure of media spending, we are uncertain of the degree to which media spending would increase, and therefore cannot calculate an accurate multiplier. This argument implies that multipliers would be (and are) unreasonably large (just over 10). When we instead run simulations varying the amount of media spending, between 50% and 100% of our expenditure values, our estimates of β_{1s} remain statistically equivalent to the previous estimates. This simulation also produces lower and reasonable multiplier estimates within ranges of media spending

[41] We think this is a valid assumption since a race with greater primary spending may have more electoral votes and garner more media attention. Also, like candidates, networks are constrained if many contests occur on the same day and have to spend less covering each given state.

between 50% and 100% of total campaign spending (between 2 and 3.5). The biggest difference between our work and the traditional public finance literature looking at local multipliers is the lack of public investment spending in this paper.

5 Where is the Money Coming from?

A discussion of the economic benefit of primaries would be incomplete without considering the sources of these funds. In particular, concern may arise that campaign contributions from individuals within a state are approximately equal to campaign spending in that same state. If, for example, Iowa residents are contributing at a higher rate than the rest of the country (especially at the time of the primary), funds may simply be moving amongst Iowa citizens.

Campaign spending differs from traditional government spending because campaigns are financed through three sources: individual level contributions, federal matching funds, and Political Action Committee (PAC) contributions. Individual level contributions in presidential races are generally considered consumption goods, where an individual donates to a campaign if it increases his/her utility (Ansolabehere et al. 2003). Thus, individuals who enjoy following politics, as well as those with more resources, tend to contribute more money to candidates and do this more frequently (Brady et al. 1995). While we do not precisely know the counterfactual, we postulate that this money would not be spent in the absence of primaries, as those who contribute in primaries tend to be more high-income individuals whose budgets allow for some flexibility in spending. However, we cannot fully assess the value of individuals' participation in the process, where they give their time, or small dollar donations to the campaign. These resources would likely be reallocated in the absence of the race. An additional source of "individual" funds, which are less frequently utilized in primary races, is a candidate's personal expenditures, which likely would not be spent to the same extent in the absence of a race and are a direct transfer to individuals in the service sector of states with a high degree

of campaigning.

Second, partial public funding is available to Presidential primary candidates in the form of matching payments of up to $250 per individual contribution.[42] To obtain these funds, candidates must become eligible and limit themselves to spending caps.[43] Again, these funds differ from the traditional federal spending in that they are not targeted at aiming an impoverished area, but instead are entrusted to viable Presidential candidates with intentions of getting out their messages to help voters make an informed decision. There has been little variation in the total federal funds allocated for Presidential primary contests over our full sample period (1976-2008), and this money can be seen as a transfer from all taxpayers to those receiving campaigning.

Third, candidates receive money from PACs. While PAC contributions have increased significantly since 1976 (FEC 2010),[44] candidates still receive most of their money during the primary from individuals and matching funds. This is because partisan PACs generally wait until a candidate has clinched the nomination to stand behind him. In 2008, candidates raised a total of $534 million from individuals, $63 million from PACs, and $21 million from federal matching funds. Similarly, in 2004, candidates raised $130 million from individual contributors, $10 million from PACs, and $27 from federal funds.[45]

Recognizing that the majority of campaign spending comes from individuals, we analyze the geographic sources of the donations in Figures 6 - 7 for 2004 and 2008, respectively. We construct a measure, entitled Campaign Ratio, by dividing total campaign-related expenses (i.e., money spent specifically on the travel-related activities for campaigning, not on ads, media, consultants, etc.) in a given state by that state's total individual-level campaign contributions. Thus, the greater the measure, the more relative money that is coming from out of state than being spent in state.

[42] Variation in total federal funding will come via the number of contributions as well as the number of candidates raising the threshold amount to begin collecting federal dollars within each primary cycle.

[43] See `www.fec.gov` for more on these rules.

[44] Also, see the CRP `http://www.opensecrets.org/pres08/totals.php?cycle=2008` for more trends on giving and expenditures.

[45] Calculations based on Federal Election Commission data on Presidential candidates' primary fundraising.

In Figure 6, we see that in early states like Iowa, New Hampshire, South Carolina, Missouri, Arkansas, and Virginia, there is the greatest ratio of spending to contributions. States like Texas, Washington, and California had some of the lowest ratios in 2004, meaning that residents were contributing more money than was being spent in the state on campaigns. Similarly, Figure 7 shows that Iowa, New Hampshire, Wisconsin, Missouri and Iowa have the highest amount of money spent on primary campaign expenditures, compared to he total contributions by state residents. However, South Carolina and Kansas still saw more money spent in their states than what their residents contributed. In general, what we see is a transfer of funds from individuals in some states with many contributors to states early in the primary process, or on days with their own contest. These figures imply that the money being spent during primaries is mostly coming from outside the state.[46]

6 Conclusion

This paper takes a traditional public finance and macroeconomics question, asking how government spending affects local economies, and looks at primary campaign spending as an exogenous shock to previously unstudied sectors of a state's economy. We find that this money modestly increases income growth in a state. Specifically, the service sectors see the largest effects, where the accommodations sector seems to be the main source of this finding.

While other papers have investigated the ability of early primaries to influence policy, as candidate's attempt to appease early state's preferences in order to clench the nomination early (Malhotra and Snowberg 2011), our paper is the first to show the economic value of hosting a primary race. We also find that when there are few candidates in the race, it is more valuable to have a primary race that occurs independently of other states, making a Super Tuesday primary less valuable in terms of spending and economic

[46]Again, we do not look at small donations or within-state volunteering as inputs.

growth. This paper provides additional incentives for states to move their primaries up in the ordering, though to do so strategically.

Additionally, this paper provides a new insight on fiscal stimulus. While previous work has established a link between government spending and increases in employment, earnings, and income, this paper asserts that additional spending in states' service sectors provide short-run increases to personal earnings on the intensive margin. Thus, when individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur). A federal re-ordering of the primary calendar may best be structured to help states with struggling service sectors.

As policymakers continue to reform campaign finance legislation, they should consider the potential positive effects, though short-run and sector-specific, that can ensue from campaign spending in states.

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Figures

Figure 1: Number of primaries over time

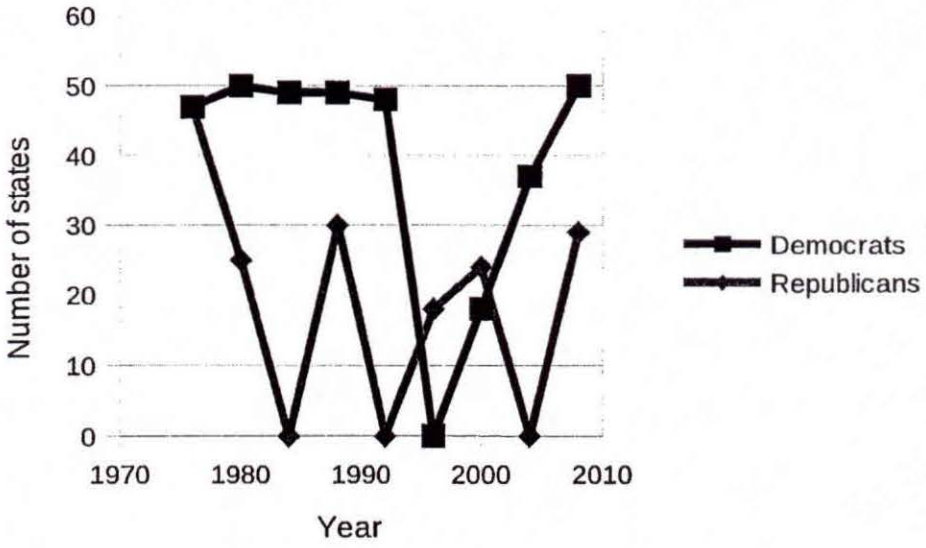


Figure 2: Primary Length and GDP

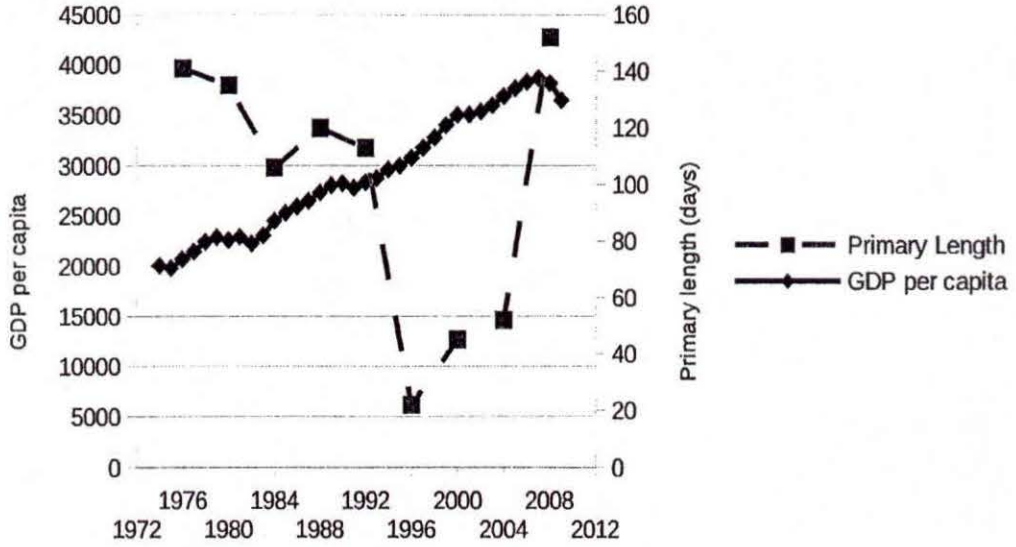


Figure 3: States that switch primary dates and GDP

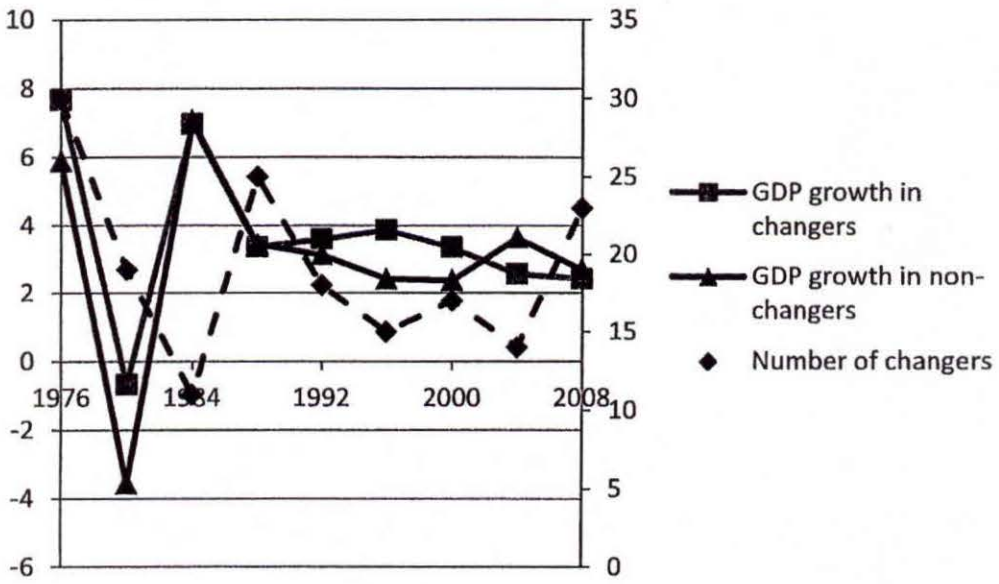


Figure 4: Primary Status Between 2004 and 2008

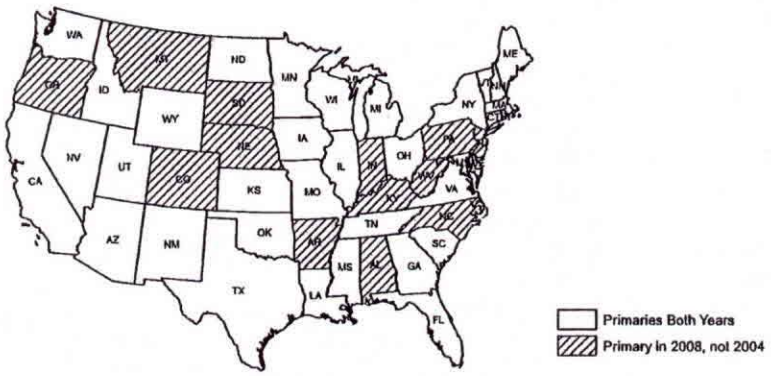


Figure 5: Changes in Expenditures from 2004-2008

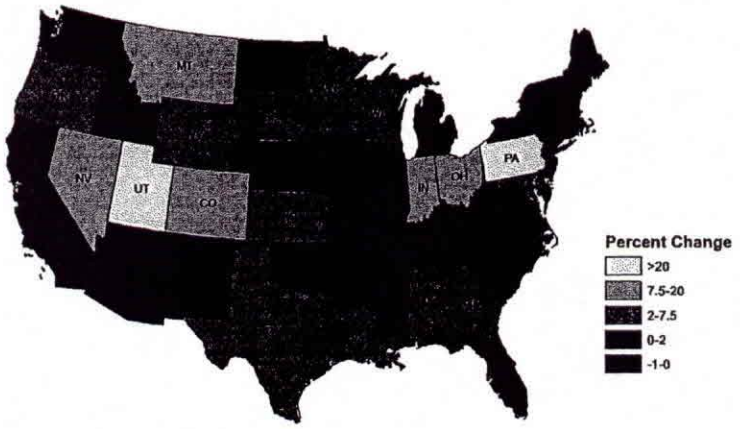


Figure 6: Campaign Expenditures and Contributions in 2004

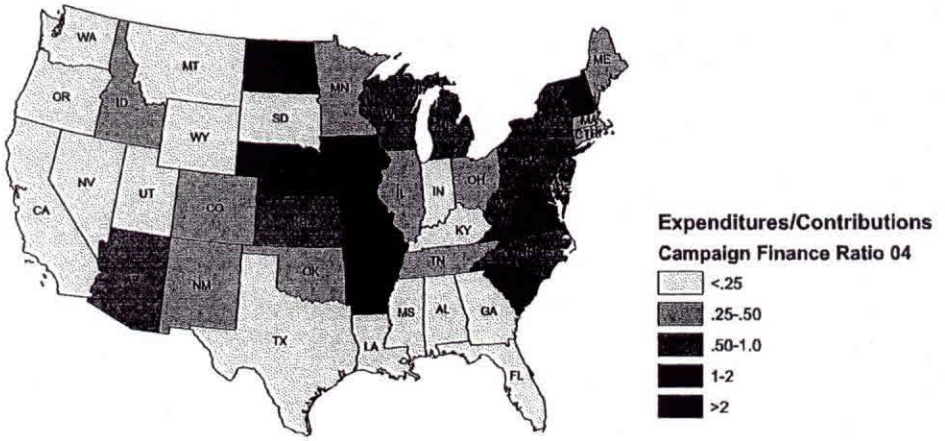
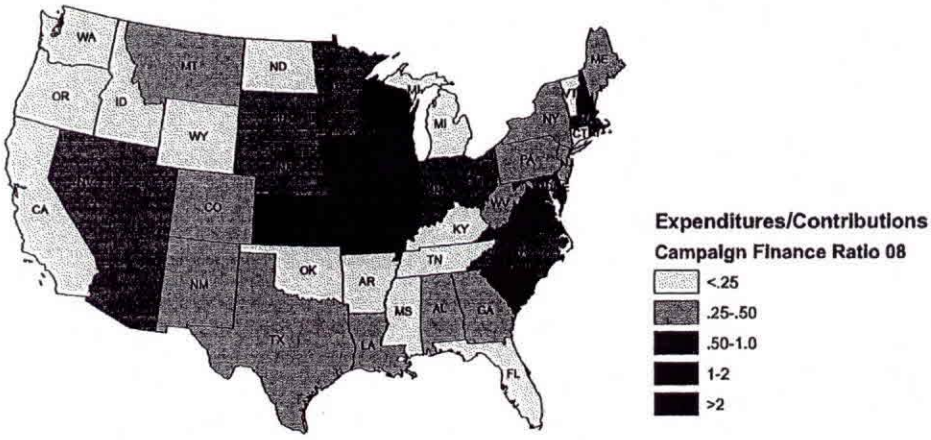


Figure 7: Campaign Expenditures and Contributions in 2008



Tables

Table 1: Dates when only one candidate remains by party

	Republicans		Democrats	
	Date Clinched	Nominee	Date Clinched	Nominee
1976	8 June	Gerald Ford	8 June	Jimmy Carter
1980	1 May	Ronald Reagan	4 June	Jimmy Carter
1984	No Contest	Ronald Reagan	5 June	Walter Mondale
1988	15 March	George H.W. Bush	7 June	Michael Dukakis
1992	No Contest	George H.W. Bush	2 June	Bill Clinton
1996	5 March	Bob Dole	No Contest	Bill Clinton
2000	9 March	George W. Bush	9 March	Al Gore
2004	No Contest	George W. Bush	11 March	John Kerry
2008	4 March	John McCain	3 June	Barack Obama

Notes: President Carter had a very low approval rating and was forced by the DNC to run in the primary in 1980. No Contest means that there were no contenders against the incumbent president.

Table 2: Spending by Primary Existence

Primary Status	Total Spending	Campaign Spending
Primary in current quarter		
Average	1,507,529	703,237
Median	423,584	222,641
25th Percentile	86,755	55,653
75th Percentile	1,487,526	721,901
Observations	89	89
Primary in next quarter		
Average	1,733,553	638,328
Median	276,206	138,157
25th Percentile	33,115	27,522
75th Percentile	1,336,009	679,948
Observations	89	89
No primary		
Average	861,762	372,993
Median	99,962	35,286
25th Percentile	16,191	4,207
75th Percentile	533,750	255,636
Observations	624	624

Total Spending includes all money spent by campaigns (in $s).
Campaign Spending removes ad and media expenditures from Total Spending.
Compares quarter/states with and without primary elections
in 2003-2004, 2007-2008.

Table 3: Primary Existence Predicts Primary Campaign Expenditures

Dependent Variable=Spending Growth		
	(1)	(2)
Primary	1.128***	1.218***
	(0.281)	(0.335)
Primary on Super Tuesday	-0.481	-0.693*
	(0.341)	(0.392)
Battleground State	-1.500***	-1.688***
	(0.222)	(0.229)
Observations	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. Column (2) includes state fixed effects.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 4: Primary Elections Increase Income Growth

Dependent Variable=Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00525***	0.00761***	0.00473**	0.000798
	(0.000678)	(0.000958)	(0.00227)	(0.000970)
Primary on Super Tuesday	-0.00399**	-0.0140***	-0.0146***	-0.00746**
	(0.00188)	(0.00316)	(0.00486)	(0.00294)
Battleground state	0.000202	-0.000194	-0.00214*	0.000474
	(0.000576)	(0.000842)	(0.00125)	(0.000736)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 5: Primary Elections Increase Income Growth (state fixed effects)

Dependent Variable = Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00528***	0.00764***	0.00497**	0.000833
	(0.000492)	(0.000635)	(0.00215)	(0.000679)
Primary on Super Tuesday	-0.00401*	-0.0137***	-0.0153***	-0.00771**
	(0.00210)	(0.00295)	(0.00400)	(0.00303)
Battleground state	0.000378	-0.000154	-0.00188*	0.000531
	(0.000509)	(0.000849)	(0.00107)	(0.000642)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 6: Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000541***	0.00134***	0.000606***
	(0.000155)	(0.000259)	(0.000215)
Battleground	0.000768	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses.
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 7: Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000520***	0.00128***	0.000586***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000222	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies and state fixed effects.

State-quarter observations. Drops IA, NH, SC.

Appendix A: Data Appendix

Table 8: Summary Statistics

	Mean	Standard deviation	Minimum	Maximum
Full Sample				
Income growth	0.0128	0.0147	-0.1020	0.1833
Services income growth	0.0209	0.0171	-0.2070	0.3299
Accommodations income growth	0.0107	0.0237	-0.4903	0.3630
Retail trade income growth	0.0110	0.0173	-0.2736	0.2800
Primary dummy	0.1011	0.3015	0	1
Super Tuesday dummy	0.0146	0.1200	0	1
Battleground dummy	0.0984	0.2978	0	1
Only for election years				
Primary dummy	0.4156	0.4930	0	1
Super Tuesday dummy	0.0600	0.2376	0	1
Battleground dummy	0.4044	0.4909	0	1
2004-2008 Sample Only				
Income growth	0.0143	0.0284	-0.0443	0.2404
Accommodations income growth	0.0110	0.0294	-0.0752	0.2158
Retail trade income growth	0.0031	0.0222	-0.0857	0.1458
Campaign spending growth	-0.4350	3.0736	-12.0499	9.3338
Campaign spending growth*	0.4401	1.7784	-8.8538	8.8708
Campaign spending growth**	-0.7289	3.3502	-12.0499	9.3338
Battleground Dummy	0.2475	0.4318	0	1
Super Tuesday dummy	0.0437	0.2047	0	1
Only for election years				
Battleground dummy	0.4950	0.5006	0	1
Super Tuesday dummy	0.0875	0.2829	0	1

* Includes only periods with primaries.

** Includes only periods without primaries.

Table 9: Variables Collected

Variable	Measured	Years	Source
Primary Dates	Date each Presidential primary was held, by state and party	1976-2008	Green Papers (for primaries) Frontloading HQ (for caucuses)
Clinch Dates	Date Presidential candidate was last remaining in contest for party nomination	1976-2008	Various sources
Battleground States	Competitive States in election based on polls (< 10 perecentage points between winner and loser)	1996-2008	Intrade Prediction markets, David Leip's Polling Report
	Competitive states in election based on ex-post results (< 10 perecentage points between winner and loser)	1976-1992	David Leip's Election Results
Income	Quarterly state earnings	1974-2008	Bureau of Economic Analysis (BEA)
Services Income	Quarterly state earnings in the "service" sector	1974-2001	BEA
Accommodations Income	Quarterly state earnings in the accommodations sector	1990-2008	BEA
Retail Income	Quarterly state earnings in the retail sector	1990-2008	BEA
Population	Annual state population interpolated by quarter	1974-2008	Census
GDP	Annual state GDP	1974-2008	BEA
Unemployment	Annual state unemployment rate	1974-2008	BLS
Campaign expenditures	All expenses by Presidential primary candidates spent in pursuit of the primary race Includes: administrative and campain expenses, i.e. hotel rooms, meals, local polling, Get-out-the-Vote, campaign events, money spent by staffers for catering meetings, rent, utilities, cable, internet, administrative supplies, staffer travel. Does not include advertisements	2004-2008	Center for Responsive Politics

Table 10: Variables Measured

Variable	Measured
Primary Dummy	Dummy Variable = 1 if there was a primary in state i in quarter t or $t+1$ based on state primary dates and clinch dates
Battleground States	Dummy Variable=1 if state i was competitive in election year, and primary nomination clinched for at least one party at time t
Primary on Super Tuesday	Dummy Variable=1 if state i had primary at time t and that day had the highest number of primary elections during that cycle
Per Capita Income Growth	$log\left(\frac{\text{Income}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Income}_{t-1}}{\text{Population}_{t-1}}\right)$
Per Capita Services Income Growth	Same as income, but only for 1974-2001
Per Capita Accommodations Income Growth	Same as income, but only for 1990-2008
Per Capita Retail Income Growth	Same as income, but only for 1990-2008
Population	Annual population data, by state (interpolated by quarter)
Spending Growth	$log(\text{Spending}_t) - \log(\text{Spending}_{t-1})$
Per Capita Spending Growth	$log\left(\frac{\text{Spending}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Spending}_{t-1}}{\text{Population}_{t-1}}\right)$

Appendix B: Election Information

Table 11: Battleground states by year

Alabama	1980, 1992, 1996
Alaska	1992
Arizona	1992, 1996, 2000, 2008
Arkansas	1980, 2000, 2004
California	1976, 1988
Colorado	1968, 1988, 1992, 1996, 2000, 2004, 2008
Connecticut	1980, 1992, 1996, 2008
Delaware	1976, 1980, 1992, 2004
Florida	1976, 1992, 1996, 2000, 2004, 2008
Georgia	1992, 1996, 2008
Hawaii	1976, 1980, 1988, 2004
Illinois	1976, 1980, 1988
Indiana	1976, 1992, 1996, 2008
Iowa	1984, 1992, 2000, 2004, 2008
Kansas	1976, 1992
Kentucky	1976, 1980, 1992, 1996
Louisiana	1976, 1980, 1992, 2000
Maine	1980, 1992, 2000, 2004
Maryland	1976, 1980, 1984, 1988
Massachusetts	1980, 1984, 1988
Michigan	1976, 1980, 1988, 1992, 2000, 2004
Minnesota	1980, 1984, 1988, 2000, 2004
Mississippi	1976, 1980, 1992, 1996
Missouri	1968, 1976, 1980, 1988, 1996, 2000, 2004, 2008
Montana	1980, 1988, 1992, 1996, 2008
Nevada	1976, 1992, 1996, 2000, 2004
New Hampshire	1992, 1996, 2000, 2004, 2008
New Jersey	1976, 1992, 2004
New Mexico	1976, 1988, 1992, 1996, 2000, 2004
New York	1976, 1980, 1984, 1988
North Carolina	1980, 1992, 1996, 2008
North Dakota	1976, 1996, 2008
Ohio	1968, 1976, 1992, 1996, 2000, 2004, 2008
Oklahoma	1976, 1992, 1996
Oregon	1968, 1976, 1980, 1988, 1992, 1996, 2000, 2004
Pennsylvania	1968, 1976, 1980, 1984, 1988, 1992, 2000
Rhode Island	1984
South Carolina	1980, 1992, 1996, 2008
South Dakota	1976, 1988, 1992, 1996, 2008
Tennessee	1980, 1992, 1996, 2000
Texas	1976, 1992, 1996
Vermont	1980, 1988, 2000
Virginia	1976, 1992, 1996, 2000, 2004, 2008
Washington	1976, 1988, 2000, 2004
West Virginia	1980, 1988, 2000
Wisconsin	1968, 1972, 1976, 1980, 1984, 1988, 1992, 2000
Wyoming	1992

Table 12: Super Tuesday states by year

Alabama	1980, 1984, 1988, 2008
Alaska	1980, 2008
Arizona	2008
Arkansas	1976, 1988, 2008
California	2000, 2004, 2008
Colorado	1996
Connecticut	1996, 2000, 2004, 2008
Delaware	1992, 2008
Florida	1980, 1984, 1988, 1992
Georgia	1980, 1984, 1988, 1996, 2000, 2004, 2008
Hawaii	1980, 1984, 1988, 2000
Idaho	1976, 2008
Illinois	2008
Kansas	1988, 2008
Kentucky	1976, 1988
Louisiana	1992
Maine	1996, 2000
Maryland	1988, 1996, 2000, 2004
Massachusetts	1984, 1988, 1996, 2000, 2004, 2008
Minnesota	1996, 2000, 2004, 2008
Missouri	1988, 1992, 1996, 2000, 2008
Montana	2008
Nevada	1976, 1984, 1988
New Jersey	2008
New Mexico	2008
New York	2000, 2004, 2008
North Carolina	1988
North Dakota	2000, 2004, 2008
Ohio	2000, 2004
Oklahoma	1980, 1984, 1988, 1992, 2008
Oregon	1976
Rhode Island	1984, 1988, 1992, 1996, 2000, 2004
Tennessee	1976, 1988, 1992, 2008
Texas	1988, 1992
Utah	2008
Vermont	1996, 2000, 2004
Virginia	1988
Washington	1980, 1984, 1988, 2004
West Virginia	2007

Appendix C: Robustness

Table 13: Per Capita Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000542***	0.00134***	0.000607***
	(0.000155)	(0.000259)	(0.000215)
Battleground State	0.000769	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 14: Per Capita Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000521***	0.00128***	0.000587***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000223	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects.
State-quarter observations. Drops IA, NH, SC.

Table 15: Results are robust restricting sample to 2004 and 2008 expenditures sample

	(1) Income	(2) Accom.	(3) Retail
Primary	0.00734***	0.0131***	0.00680***
	(0.00162)	(0.00273)	(0.00196)
Primary on Super Tuesday	-0.000656	-0.00935**	-0.00731*
	(0.00301)	(0.00443)	(0.00438)
Battleground State	-0.000263	-0.0114***	-0.00411***
	(0.00123)	(0.00188)	(0.00147)
Observations	658	658	658

Robust standard errors in parentheses

Includes quarter dummies

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

CHAPTER 23: EXPENDITURE MULTIPLIER

Consumption and Savings Function:

- Consumption is primarily a function of Yd (disposable income) or "after-tax" income. Although it is also influenced by the rate of interest, expectations about future Yd, wealth effects etc.
- if plot Consumption as a function of Yd it will have a positive vertical intercept ('autonomous consumption') and a positive slope but less than one (i.e, the slope of the consumption function is the coefficient on Yd in the Consumption equation and represents the Marginal Propensity to Consume (MPC). Therefore, $0<MPC<1$
- if plot the consumption function versus a 45 degree line (with the mathematical property that any point on the 45 degree line has the same vertical coordinate as horizontal coordinate, or $x = y$) then where Consumption intersects the 45 degree line is referred to as "breakeven level of Yd".
- at Yd < Yd breakeven, then C > Yd (the individual is 'dissaving' as savings <0)
- at Yd > Yd breakeven, then C < Yd and the individual is "saving", Savings >0.
- the Savings function is derived from the consumption function (if the consumption function changes then so does the savings function). For example, if

  $C = a + b(Y - T)$ where $a>0$, $0<b<1$ and $Yd= Y-T$

  then the implied savings function is:

  $S = -a + (1-b)(Y - T)$ where $(1-b)$ = MPS (marginal propensity to save)

Note: $MPC + MPS = 1$

- Mathematical example:

  if $C = 1000 + 0.80(Y - T)$ then the implied savings function is:

  $S = -1000 + 0.20(Y - T)$

where MPC = 0.80 and MPS = 0.20. See the graphs pg. 529

Effects of other variables on Consumption function:

- if the interest rate falls or expected future disposable income increases, then the consumption function shifts upwards and the implied savings function shifts downwards (see pg. 531)

Other Components of Aggregate Expenditure (AE):

i) Investment function:

- depends on interest rate, expected future profits. Not related to current GDP or Yd. Therefore, if we plot the investment function in diagram with Investment expenditures on the vertical axis and real GDP on the horizontal axis, the Investment (I) line is horizontal at I_0. That is, we assume that:

  $I = I_0$.

ii) Government expenditures:

- changes in government expenditures (G) or taxes (T) represents a "fiscal policy" decision of the federal government. Therefore, a change in G is a policy choice and does not respond automatically to the level of GDP (Y). So in a diagram, G is also assumed to be autonomous,

  $G = G_0$.

iii) Exports:

- exports represent Canadian goods sold abroad. The level of exports will depend primarily on the Canadian price level (P), foreign price level (Pf), the exchange rate (E) and foreign GDP (Yf). Therefore, once again, X does not respond to the level of Canadian GDP so exports are

autonomous.

$$X = X_0.$$

iv) Imports:

- depends on relative prices (Canadian and foreign prices), the exchange rate (E), and Canadian GDP (Y). As GDP (Y) increases, we buy more goods and services and some of these will be imported from the rest of the world. Therefore,

  Imports (M) = m Y where $0<m<1$ and m=MPM (marginal propensity to import)

Aggregate Expenditure function (AE):

- will have a positive intercept (see graph pg. 534)
- the slope of the AE function is given by:
  - slope of AE = MPC (1-t) - MPM where $0<t<1$ and t represents the tax **rate**
- Note if we have lump sum taxes, T = To (a constant) then t=0 and the slope of the AE function is just = MPC - MPM

- Numerical Example:

  If MPC = 0.80, MPM = 0.10 and t = 0.25 then the slope of the AE function is:
  slope of AE = 0.80 (1 - 0.25) - 0.10
  slope of AE = 0.50

Equilibrium GDP (Y):

- when AE = Y (planned spending = production) we have an equilibrium
- graphically this occurs anywhere along the 45 degree line with AE on the vertical axis and real GDP (Y) on the horizontal axis. Specifically, the equilibrium is where the given AE function intersects the 45 degree line. (see pg. 536)

Calculation of Equilibrium GDP (Y):

- Suppose you are given the following equations:

  C = 1000 + 0.80 (Y- T)
  I = 180
  G = 100
  X = 200
  M = 0.20 Y
  T = 100

- To find equilibrium GDP, follow these steps:
- **Step 1**: Calculate the AE equation by adding C, I G, X and M together and substitute the T value into the consumption equation

  AE = C + I + G + X - M
  so AE = 1000 + 0.80(Y -100) + 180 + 100 + 200 - 0.20 Y
  or AE = 1400 + 0.60 Y

-**Step 2:** Impose the equilibrium condition, AE = Y

  so 1400 + 0.60 Y = Y

and since the equilibrium condition has been imposed, the value of Y solved for is then equilibrium Y.

- **Step 3:** Solve for equilibrium GDP

  $0.40\ Y = 1400$

  so $Y = 3500$

The Multiplier:

- the definition of the multiplier is: $\text{multiplier} = \frac{\text{change in equilibrium Y}}{\text{change in autonomous spending}}$

- the formula for the expenditure multiplier is: $\text{multiplier} = \frac{1}{1 - \text{slope of AE function}}$

Example: If the MPC = 0.80, t = 0, and MPM = 0.05 then
the slope of the AE function is = 0.75 and the multiplier is = 4
Therefore, for everyone $1 increase in spending (whether it be from C, I, G, X) it will generate a $4 increase in equilibrium GDP.

- continuing the example from above where equilibrium Y = 3500, if full employment GDP (Y*) = 4300 then in order to get to full employment GDP the government could increase its spending by 200 (once subject to the multiplier, the overall increase in GDP is going to be $800 bringing the new equilibrium GDP level to $4300 (=Y*)

The Lump sum Tax multiplier:

- if the government has a lump sum tax (so the tax rate, t = 0),then a $1 increase in taxes would reduce Consumption expenditures by the value of the MPC (eg 0.80). This reduction in expenditures is then subject to the multiplier. The end result is that when taxes (T) change, equilibrium GDP changes according to the value of the tax multiplier,
- definition of the tax multiplier: $\text{tax multiplier} = \frac{-\text{MPC}}{1 - \text{slope of the AE function}}$

Example:
If the MPC = 0.80, t = 0 and MPM = 0.05 then the tax multiplier is:

$$\text{tax multiplier} = \frac{-0.80}{1 - 0.75}$$

then the tax multiplier is -3.2
The tax multiplier is always a negative number because from the definition of the tax multiplier above, we know that if taxes increase (decrease), then real GDP will decrease (increase) so the tax multiplier is negative.

- you use the tax multiplier to determine the required change in taxes to bring about full employment GDP. Suppose again that Y (eq'l) = 3500 and Y* = 4300 and the tax multiplier is -3.2

then from the definition of the tax multiplier:

$$\text{tax multiplier} = \frac{\text{change in equilibrium GDP}}{\text{change in taxes (lump sum)}}$$

so if the tax multiplier is -3.2 and to get to full employment GDP we want the change in equilibrium GDP to be +$800, then the change in taxes should be = 800/-3.2 or = -$250

The Multiplier and the Price Level:

- n the price level (P) was held constant in deriving the AE function. Therefore, if the price level changes it will shift the AE curve (due to the wealth effect and the substitution effects, see page 543).
- n specifically, if the price level increases, AE shifts down (the increase in price reduces real wealth and encourages international and intertemporal substitution so consumption expenditures decrease and imports increase lowering equilibrium GDP). See graphs on page 544.

Derivation of the AD curve:

- n can derive the AD curve (from chapter 22) by changing the price level and tracing out what happens to equilibrium GDP following the shift in the AE curve. See page 544.
- n we can also trace out the effects of changes in other variables (eg changes in the interest rate or exchange rate etc) on the AD curve itself. See page 545. If the AE curve shifts upwards due to any effect but a change in price, then the AD curve will shift in response. See page 545.

Note: you should read over the Appendix to Chapter 23 (the mathematical note at the end of the chapter).

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College,** and **St. Louis Community College.**

Fiscal Note Summary

It is estimated this proposal will increase state government costs by at least $118,000 annually and have an unknown change in costs for local governmental entities. Any potential impact to revenues for state and local governmental entities is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-037)

Subject

Initiative petition from Whitfield Montgomery regarding a proposed constitutional amendment to Article I. (Received May 30, 2013)

Date

June 18, 2013

Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Whitfield Montgomery provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated:

There is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Social Services** indicated this initiative petition has no fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from **Greene County** indicated no apparent impact.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated this would have no direct fiscal impact on their college.

Whitfield Montgomery provided the following information as a proponent of this initiative petition.

The Consumer Borrowers' Bill of Rights will have no impact on state or local government revenues. This proposal makes legally enforceable a series of best practices for consumer lending. This proposal allows consumer lending to occur in Missouri while protecting consumers from unethical (soon to be illegal) practices. Accordingly, no legitimate economic activity will be lost in the state and no loss to state and local government revenues will occur. Costs to enforce the measure are minimal and can be absorbed by existing state and local budgets.

The State Auditor's office did not receive a response from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Public Safety,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

There are no estimated costs or savings expected for state and local governmental entities if this proposal is approved by voters. Increased fine revenue resulting from this proposal could reduce state government expenses and increase revenue for some school districts, but the fiscal impact is unknown and likely insignificant.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-003)

Subject

Initiative petition from Ron Calzone regarding a proposed constitutional amendment to Article I, Sections 26, 27, and 28. (Received November 9, 2012)

Date

November 28, 2012

Description

This proposal would amend Article I, Sections 26, 27, and 28 of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office,** the **State Tax Commission, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that the implementation of this proposal creates no fiscal impact. However, they assume that because this proposal has the potential to be the subject of state litigation, potential costs are unknown.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated they anticipate that the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department. However, changes to the state's imminent domain laws may affect public colleges and universities within the state. A response on the proposal should also be sought from them.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the department would not anticipate a fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition may have fiscal impact on their department, to the extent it exercises the power of eminent domain. The petition proposes a new method of determining just compensation, which will likely be greater than the current method. It also places additional conditions and restrictions on the use of the power of eminent domain, which could lead to more agency costs as they work to demonstrate compliance with the new provisions.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's Office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from **Department of Transportation** indicated they are unable to provide an estimate of the negative fiscal impact this initiative petition will have upon their department if it is approved by the voters; therefore, the negative fiscal impact due to this initiative petition is unknown, greater than $100,000.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office. There should be no impact on general or total state revenues.

Officials from the **Missouri Senate** indicated this legislation appears to have no fiscal impact as it relates to their agency.

Officials from the **Office of State Courts Administrator** indicated there is fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there will be no impact to their office.

Officials from the **State Tax Commission** indicated this initiative petition would have no impact to their agency.

Officials from the **City of Columbia** indicated while hard to quantify, they expect that these amendments, if approved, would create a more costly process for acquiring property, and possibly add risk.

They would expect substantial delays in projects that require condemnation because the city could not get possession of the easement or property until "a final legal determination of the legitimacy of the taking is established." This could be tied up in court for years if it's appealed. To avoid this, it could be necessary to pay more than fair market value for takings.

It appears that without a property owner's "consent," the city might bear all the costs of acquisition without getting true ownership of the property, creating risk through unclear title and inability to actually govern use of the property.

Officials from the **City of Jefferson** indicated the cost to the city should this petition become law is unknown but would likely increase the cost of condemnation to the city.

Officials from the **City of Kansas City** indicated this initiative petition would cause a large loss of tax revenues as the initiative eliminates several economic development tools available to the city. The city will be unable to attract and unable to retain businesses. This initiative discourages economic development in Missouri and encourage businesses to locate or relocate across the state line. The annual cost to the city is in the millions.

Officials from the **City of Raymore** indicated the city does not anticipate any fiscal impact.

Officials from the **City of St. Joseph** indicated the initiative petition would result in significant increases in cost and significant amounts of lost revenue to the city. In addition, the following related information was provided by the city. The initiative petition proposes changes to Article I, Sections 26, 27, and 28 that would prohibit the use of eminent domain for redevelopment by providing that: (a) only public entities can acquire property using eminent domain; (b) no private ownership or other private rights shall be considered a public use; (c) the future use must be declared at the time of acquisition and cannot be changed; and (d) the public entity that acquired the property via eminent domain cannot transfer such property to private ownership any sooner than twenty (20) years following the acquisition unless the original owner has been offered the right to buy back the property at the original price or unless the private owner is providing products or services incidental to the function of a publicly owned facility.

The changes to Article VI, Section 21, effectively strips out the ability of local governments to use eminent domain for redevelopment that involves private entities. These proposed

changes will result in both extreme costs and extreme loss of revenue to the City. The city uses eminent domain sparingly. But it is a very important tool that is vital in their efforts to overcome hundreds of acres of blight caused by five decades of suburban flight.

Much like St. Louis, St. Joseph boasted a population of 100,000 in 1900, which has fallen to 76,000 since. As a result of this population loss, there are now hundreds of vacant lots and structures in the City of St. Joseph.

Redeveloping this decay would be easy if all of the properties adjacent to each other, but old-style building lots (many times 40' x 100' wide) will not accommodate modern development. To re-develop, multiple lots need to be combined in a practical density to attract both developers and builders to invest and for potential residents to purchase and live in. But lacking concentrations of contiguous lots, re-development is difficult to achieve. The vast majority of our privately owned vacant buildings and lots are not maintained by their private owners. Many of these structures suffer from the blight in the larger neighborhood and block reasonable re-development. Blight, and its effects on neighboring properties, property taxes, and public service delivery spread ever wider if not addressed.

Eminent domain is needed to eradicate the vacant, abandoned, dangerous and problem properties that were left behind 25% of St. Joseph's population left.

Private participation in the redevelopment process is necessary because the city does not have the resources to acquire the thousands of problem properties in the city, eliminate the problematic conditions, and hold the property for twenty (20) years. These properties were never used for governmental purposes and were not intended for governmental use. The city does not wish to—and cannot afford to—use public funds and eminent domain to purchase these properties, use public funds to redevelop them—and then own them and operate them for what are essentially private business and residential purposes for a twenty-year period. As provided in the proposed amendment, the city will not even be able to enlist the assistance of private enterprise in the operation of the properties or to realize any income from the property to offset the expense of acquiring and redeveloping it for the twenty-year period, because the proposed amendment prohibits the property from being "sold, leased, transferred, or otherwise made available for use by a private party within 20 years of such taking…unless the private owner is providing products or services incidental to the function of a publicly owned facility." Private redevelopment and ownership will allow the city to rebuild its tax base; public ownership for a twenty-year period, on the other hand, will cost the city millions upon millions of dollars and result a veritable wasteland for two decades since it will not be possible for the city to use the property in any manner that allows the city to recoup even a portion of its investment—if it were even possible for the city to make the investment in the first place. Since city funds are not available, it will not possible to address these conditions with the limited and weak mechanisms that will remain if the amendment passes. Thus, the proposed amendment would sentence the city to another five—and more—decades of decline, disinvestment and population loss as people and businesses again leave the city because they cannot tolerate negative conditions that the city is powerless to change. The city needs to rebuild the market for city real estate and rebuild its tax base in the process—the proposed amendment would make it impossible for the city to do this.

Even more important, the amendment will make it impossible for the city to address the redevelopment of blighted areas in a manner that returns these areas to productive uses that

generate tax revenues for the city and the State of Missouri. The redevelopment of blighted areas necessarily involves the participation of the private sector, which the amendment would prohibit for a twenty-year period. While few cities enjoy the prospect of utilizing this power as a re-development tool, it is nevertheless a tool that is effective both in its actual use and its possible to motivate all of the players involved in re-development to make the decisions necessary to rescue neighborhoods and commercial areas one at a time. It is critical that the city retain the ability to address blighted areas and to partner with private enterprise for the redevelopment of these blighted areas—the city cannot address the distress that currently exists in the city using public funds alone.

Because of the limited time allowed to review this issue and its far-reaching impacts, sufficient time to analyze the fiscal impact has not been provided. However, over a ten year period staff estimates an impact of approximately $7,500,000.

PUBLIC WORKS IMPROVEMENTS

Changes to the constitution regarding public purpose, property retention, and deadlines for use, would have dramatic and far-reaching impacts on any government undertaking typical public projects in a typical year.

In St. Joseph, city government seeks to be as efficient and prudent with public funds as possible. An effective tool to hedge against future costs for projects that do not have complete funding available is to pursue corridor preservation projects. Examples of this would be to acquire property necessary to build a new road in the future of easements for a new sewer, flood control, or utility project. Taxpayers realize a benefit from purchasing property today at current valuations and also head-off future costs by purchasing property before it develops. Already developed property costs more and has more negatives attached to it (possible purchase and demolition of homes and businesses) that could easily be avoided if the government owned necessary property before development.

It is not uncommon for corridor preservation projects to precede actual utilization by 10-20 years. However, if section 28.2 were enacted, all property would return after five years. This would effectively eliminate the ability of government to reduce the future costs of future public improvements. It will make easily avoided conflicts more expensive and more difficult, with property owners and taxpayers suffering needlessly. In St. Joseph, this provision assumes the following:

- 2% per year cost escalation for listed projects of $10,000,000 = $200,000/year x 10 years = $2,000,000

Section 26.1 proposes to make debatable the public purpose of project's public use. In fact, it opens the door for the approach taken to address the public use being decided via a jury trial. The potential impact to a project involves an adversarial position being taken for a completed project design, and an alternative decision being made by a jury. This would require the unit of government to re-design the project according to the direction of the jury, and regardless of the technical merit and cost-effectiveness of that decision. Aside from the financial impact of the delays involved, re-design would expose government to re-paying for the same design, typically 10% of the project budget. In St. Joseph, the impact would be as follows:

- $150,000.000 CSO Program x 10% = $15,000,000 in additional design fees over 20 years
- $50,000,000 Road Projects x 10% = $5,000,000 in additional design fees over 10 years

Section 26 also makes significant changes to the requirements of appraisals. On federal projects, and per state law now, appraisals are required to be made by licensed professionals. The intent is that for appraisals to consistently follow prescribed methodology, be objective, consistent, and defensible. The change to allow appraisals to conform with "methods typical to the ordinary course of business" essentially throws this professional approach out. If this change were made, a multitude of methods may be accepted, throwing valuation into a much higher level that is made without basis in fact. St. Joseph typically has experienced differences between trained individuals and the lay community at 50% or more. Over the next twenty years, the following would be expected:

- $9,000,000 – value of CSO property/easement acquisition x 50% escalation = $4,500,000 extra that taxpayers would have to needlessly pay for a public project.
- $5,000,000 – value of Road Projects property/easement acquisition x 50% escalation = $2,500,000 extra that taxpayers would have to needlessly pay for a public project

Section 28.4 has the potential for a massive abuse. It is not at all unusual for property owners to declare that they will not be able to utilize a property if not all of it is purchased, stating that the balance of the property not required would be an uneconomic remnant. Many governments, to avoid the creation or claim of such a condition, purchase the entire parcel, construct their improvement, and the re-sell the balance of the property that was not needed in the first place.

Under the provisions of 28.4, a property owner has the potential to realize a profit twice on a property. The first, being the sale of property the government didn't originally need but acquired at the insistence of a property owner. The second, from a sole-source arrangement wherein he can re-purchase at the lower rate after improvements have been made to the property (when it would be worth more via the virtue of having a new road, new utilities, grading/clearing, etc. that was necessary for the project.) Taxpayers are hurt initially having to buy more property than needed, but can't realize the benefit of that investment by being required to sell a property back at the pre-developed rate. This type of issue is claimed on approximately 10% of all property acquisition activities as follows:

- $14,000,000 (value of all property activities) x 10% = $1,400,000

- $1,400,000 x 50% (value of properties purchased at insistence of owners) = $700,000
- $700,000 x 25% (enhanced value typical of "unusable" property after a project) = $175,000
- Total lost $875,000

One of the basic reasons that local government exists is to provide public services and construct and maintain public infrastructure. The proposed changes to the constitution would fundamentally alter these basic tenets of government, destroying the ability of government to plan for the future and to construct projects. In the time given to comment, St. Joseph was not able to compute the far-reaching and more significant impacts to a community that can't grow, can't improve itself, and can't provide the basic elements that its citizens, prospective

businesses, and prospective citizens expect and require. The lost employment and resident opportunities are significant.

Total impacts for St. Joseph would be: $37,375,000.00

Officials from the **City of St. Louis** indicated they estimate the fiscal impact of this bill for fiscal years 2014, 2015 and 2016 to be as follows:

Three agencies within the St. Louis Development Corporation (SLDC) currently have eminent domain authority. They have used that power to assist developers or redevelopers acquire parcels that are necessary to complete their developments or redevelopments and thereby bring new jobs, industry, housing and revenues to the city. Losing eminent domain authority will have an unquantifiable negative impact on the city.

Officials from the **City of Wentzville** indicated there will be no financial impact at this time, since we are not doing any TIFs, but could limit future economic development.

Officials from **Linn State Technical College** indicated these changes should not have an estimated cost or savings to their college.

Officials from **Metropolitan Community College** indicated this would have no direct fiscal impact on their college.

Officials from **University of Missouri** indicated this petition would have a significant fiscal impact on the university, but they do not have enough information to determine an actual amount.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District,** and **St. Louis Community College.**

Fiscal Note Summary

The total cost or savings to state or local governmental entities is unknown. The estimated costs, if any, to state and local governmental entities could be significant.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-004)

Subject

Initiative petition from Ron Calzone regarding a proposed constitutional amendment to Article VI, Section 21. (Received November 9, 2012)

Date

November 28, 2012

Description

This proposal would amend Article VI, Section 21 of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office,** the **State Tax Commission, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that the implementation of this proposal creates no fiscal impact. However, they assume that because this proposal has the potential to be the subject of state litigation, potential costs are unknown.

Officials from the **Department of Economic Development** indicated there will be fiscal impact for their department, but the amount is unknown.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated they anticipate that the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that their department or any of the department's constituent programs would be included as a "political subdivision" under this proposed language. Therefore, their department would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this will have no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Social Services** indicated since this provision applies to private property owners, enactment of this amendment poses no fiscal impact to their department.

Officials from the **Governor's Office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from **Department of Transportation** indicated this proposal would delete current constitutional authority for cities and counties to condemn private property to remedy "blighted" areas. Because Missouri Highway Transportation Commission's (MHTC's) condemnations are for state highway system purposes and are not intended to relieve blight, this IP would not impact MHTC's condemnation cases.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office. There should be no impact on general or total state revenues.

Officials from the **Missouri Senate** indicated this legislation appears to have no fiscal impact as it relates to their agency.

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Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there will be no impact to their office.

Officials from the **State Tax Commission** indicated this initiative petition would have no impact to their agency.

Officials from the **City of Columbia** indicated the amendment to Article VI, Section 21 could be construed as prohibiting cities from establishing administrative procedures for abating nuisances. If cities are required to go to court to abate nuisances and can only abate a nuisance "within a reasonable time after final judgment," nuisance enforcement would be seriously limited. Weed abatement, for example, would be futile because a court case would take longer than a growing season to resolve. Thus, there is an opportunity cost if the city cannot quickly and effectively abate nuisances on behalf of the public.

Officials from the **City of Jefferson** indicated because this petition would appear to require litigation of every nuisance claim, instead of currently available administrative proceedings, the cost to the city, should this ordinance become law, would be an estimated two hundred thousand dollars ($200,000) per year based upon 40 nuisance per year at $5,000 litigation cost per nuisance.

Officials from the **City of Kansas City** indicated it is difficult to measure the cost that this initiative would have on the city. The city protects the citizens' property values by prohibiting public nuisances that are in a broader category than public nuisances as defined by common law. It is not clear if costs for abatement include administrative and legal costs which the city is currently able to recover. By limiting their recovery to lien enforcement, the city's collection efforts are severely curtailed as demolition costs for dangerous buildings are a personal debt against the owner.

This initiative would decrease the citizens' property values, thereby decreasing our tax revenues, and dramatically decrease their collection revenue for nuisance abatement recovery. The annual cost to the city is in the millions.

Officials from the **City of Raymore** indicated the city does not anticipate any fiscal impact.

Officials from the **City of St. Joseph** indicated their response to 14-004 and 14-005 is the same as their response to 14-002 and 14-003:

The City of St. Joseph indicated the initiative petition would result in significant increases in cost and significant amounts of lost revenue to the city. In addition, the following related information was provided by the city. The initiative petition proposes changes to Article I, Sections 26, 27, and 28 that would prohibit the use of eminent domain for redevelopment by providing that: (a) only public entities can acquire property using eminent domain; (b) no private ownership or other private rights shall be considered a public use; (c) the future use must be declared at the time of acquisition and cannot be changed; and (d) the public entity that acquired the property via eminent domain cannot transfer such property to private ownership any sooner than twenty (20) years following the acquisition unless the original owner has been offered the right to buy back the property at the original price or unless the

private owner is providing products or services incidental to the function of a publicly owned facility.

The changes to Article VI, Section 21, effectively strips out the ability of local governments to use eminent domain for redevelopment that involves private entities. These proposed changes will result in both extreme costs and extreme loss of revenue to the City. The city uses eminent domain sparingly. But it is a very important tool that is vital in their efforts to overcome hundreds of acres of blight caused by five decades of suburban flight.

Much like St. Louis, St. Joseph boasted a population of 100,000 in 1900, which has fallen to 76,000 since. As a result of this population loss, there are now hundreds of vacant lots and structures in the City of St. Joseph.

Redeveloping this decay would be easy if all of the properties adjacent to each other, but old-style building lots (many times 40' x 100' wide) will not accommodate modern development. To re-develop, multiple lots need to be combined in a practical density to attract both developers and builders to invest and for potential residents to purchase and live in. But lacking concentrations of contiguous lots, re-development is difficult to achieve. The vast majority of our privately owned vacant buildings and lots are not maintained by their private owners. Many of these structures suffer from the blight in the larger neighborhood and block reasonable re-development. Blight, and its effects on neighboring properties, property taxes, and public service delivery spread ever wider if not addressed.

Eminent domain is needed to eradicate the vacant, abandoned, dangerous and problem properties that were left behind 25% of St. Joseph's population left.

Private participation in the redevelopment process is necessary because the city does not have the resources to acquire the thousands of problem properties in the city, eliminate the problematic conditions, and hold the property for twenty (20) years. These properties were never used for governmental purposes and were not intended for governmental use. The city does not wish to—and cannot afford to—use public funds and eminent domain to purchase these properties, use public funds to redevelop them—and then own them and operate them for what are essentially private business and residential purposes for a twenty-year period. As provided in the proposed amendment, the city will not even be able to enlist the assistance of private enterprise in the operation of the properties or to realize any income from the property to offset the expense of acquiring and redeveloping it for the twenty-year period, because the proposed amendment prohibits the property from being "sold, leased, transferred, or otherwise made available for use by a private party within 20 years of such taking…unless the private owner is providing products or services incidental to the function of a publicly owned facility." Private redevelopment and ownership will allow the city to rebuild its tax base; public ownership for a twenty-year period, on the other hand, will cost the city millions upon millions of dollars and result a veritable wasteland for two decades since it will not be possible for the city to use the property in any manner that allows the city to recoup even a portion of its investment—if it were even possible for the city to make the investment in the first place. Since city funds are not available, it will not possible to address these conditions with the limited and weak mechanisms that will remain if the amendment passes. Thus, the proposed amendment would sentence the city to another five—and more—decades of decline, disinvestment and population loss as people and businesses again leave the city because they cannot tolerate negative conditions that the city is powerless to change. The city

needs to rebuild the market for city real estate and rebuild its tax base in the process—the proposed amendment would make it impossible for the city to do this.

Even more important, the amendment will make it impossible for the city to address the redevelopment of blighted areas in a manner that returns these areas to productive uses that generate tax revenues for the city and the State of Missouri. The redevelopment of blighted areas necessarily involves the participation of the private sector, which the amendment would prohibit for a twenty-year period. While few cities enjoy the prospect of utilizing this power as a re-development tool, it is nevertheless a tool that is effective both in its actual use and its possible to motivate all of the players involved in re-development to make the decisions necessary to rescue neighborhoods and commercial areas one at a time. It is critical that the city retain the ability to address blighted areas and to partner with private enterprise for the redevelopment of these blighted areas—the city cannot address the distress that currently exists in the city using public funds alone.

Because of the limited time allowed to review this issue and its far-reaching impacts, sufficient time to analyze the fiscal impact has not been provided. However, over a ten year period staff estimates an impact of approximately $7,500,000.

PUBLIC WORKS IMPROVEMENTS

Changes to the constitution regarding public purpose, property retention, and deadlines for use, would have dramatic and far-reaching impacts on any government undertaking typical public projects in a typical year.

In St. Joseph, city government seeks to be as efficient and prudent with public funds as possible. An effective tool to hedge against future costs for projects that do not have complete funding available is to pursue corridor preservation projects. Examples of this would be to acquire property necessary to build a new road in the future of easements for a new sewer, flood control, or utility project. Taxpayers realize a benefit from purchasing property today at current valuations and also head-off future costs by purchasing property before it develops. Already developed property costs more and has more negatives attached to it (possible purchase and demolition of homes and businesses) that could easily be avoided if the government owned necessary property before development.

It is not uncommon for corridor preservation projects to precede actual utilization by 10-20 years. However, if section 28.2 were enacted, all property would return after five years. This would effectively eliminate the ability of government to reduce the future costs of future public improvements. It will make easily avoided conflicts more expensive and more difficult, with property owners and taxpayers suffering needlessly. In St. Joseph, this provision assumes the following:

- 2% per year cost escalation for listed projects of $10,000,000 = $200,000/year x 10 years = $2,000,000

Section 26.1 proposes to make debatable the public purpose of project's public use. In fact, it opens the door for the approach taken to address the public use being decided via a jury trial. The potential impact to a project involves an adversarial position being taken for a completed

project design, and an alternative decision being made by a jury. This would require the unit of government to re-design the project according to the direction of the jury, and regardless of the technical merit and cost-effectiveness of that decision. Aside from the financial impact of the delays involved, re-design would expose government to re-paying for the same design, typically 10% of the project budget. In St. Joseph, the impact would be as follows:

- $150,000.000 CSO Program x 10% = $15,000,000 in additional design fees over 20 years
- $50,000,000 Road Projects x 10% = $5,000,000 in additional design fees over 10 years

Section 26 also makes significant changes to the requirements of appraisals. On federal projects, and per state law now, appraisals are required to be made by licensed professionals. The intent is that for appraisals to consistently follow prescribed methodology, be objective, consistent, and defensible. The change to allow appraisals to conform with "methods typical to the ordinary course of business" essentially throws this professional approach out. If this change were made, a multitude of methods may be accepted, throwing valuation into a much higher level that is made without basis in fact. St. Joseph typically has experienced differences between trained individuals and the lay community at 50% or more. Over the next twenty years, the following would be expected:

- $9,000,000 – value of CSO property/easement acquisition x 50% escalation = $4,500,000 extra that taxpayers would have to needlessly pay for a public project.
- $5,000,000 – value of Road Projects property/easement acquisition x 50% escalation = $2,500,000 extra that taxpayers would have to needlessly pay for a public project

Section 28.4 has the potential for a massive abuse. It is not at all unusual for property owners to declare that they will not be able to utilize a property if not all of it is purchased, stating that the balance of the property not required would be an uneconomic remnant. Many governments, to avoid the creation or claim of such a condition, purchase the entire parcel, construct their improvement, and the re-sell the balance of the property that was not needed in the first place.

Under the provisions of 28.4, a property owner has the potential to realize a profit twice on a property. The first, being the sale of property the government didn't originally need but acquired at the insistence of a property owner. The second, from a sole-source arrangement wherein he can re-purchase at the lower rate after improvements have been made to the property (when it would be worth more via the virtue of having a new road, new utilities, grading/clearing, etc. that was necessary for the project.) Taxpayers are hurt initially having to buy more property than needed, but can't realize the benefit of that investment by being required to sell a property back at the pre-developed rate. This type of issue is claimed on approximately 10% of all property acquisition activities as follows:

- $14,000,000 (value of all property activities) x 10% = $1,400,000

- $1,400,000 x 50% (value of properties purchased at insistence of owners) = $700,000
- $700,000 x 25% (enhanced value typical of "unusable" property after a project) = $175,000

- Total lost $875,000

One of the basic reasons that local government exists is to provide public services and construct and maintain public infrastructure. The proposed changes to the constitution would fundamentally alter these basic tenets of government, destroying the ability of government to plan for the future and to construct projects. In the time given to comment, St. Joseph was not able to compute the far-reaching and more significant impacts to a community that can't grow, can't improve itself, and can't provide the basic elements that its citizens, prospective businesses, and prospective citizens expect and require. The lost employment and resident opportunities are significant.

Total impacts for St. Joseph would be: $37,375,000.00

Officials from the **City of Wentzville** indicated no fiscal impact money wise same as do now.

Officials from **Linn State Technical College** indicated these changes should not have an estimated cost or savings to their college.

Officials from **Metropolitan Community College** indicated this would have no direct fiscal impact on their college.

Officials from **University of Missouri** indicated this petition applies to local government and does not appear to apply to the university.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District,** and **St. Louis Community College.**

Fiscal Note Summary

The total cost or savings to state or local governmental entities is unknown. Most state governmental entities estimate the proposal results in no fiscal impact; however, some state entities reported potential unknown fiscal impact or costs. The estimated costs, if any, to local governmental entities could be significant.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-005)

Subject

Initiative petition from Ron Calzone regarding a proposed constitutional amendment to Article VI, Section 21. (Received November 9, 2012)

Date

November 28, 2012

Description

This proposal would amend Article VI, Section 21 of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office,** the **State Tax Commission, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that the implementation of this proposal creates no fiscal impact. However, they assume that because this proposal has the potential to be the subject of state litigation, potential costs are unknown.

Officials from the **Department of Economic Development** indicated there will be fiscal impact for their department, but the amount is unknown.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated they anticipate that the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that their department or any of the department's constituent programs would be included as a "political subdivision" under this proposed language. Therefore, their department would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this will have no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Social Services** indicated since this provision applies to private property owners, enactment of this amendment poses no fiscal impact to their department.

Officials from the **Governor's Office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from **Department of Transportation** indicated this proposal would delete current constitutional authority for cities and counties to condemn private property to remedy "blighted" areas. Because Missouri Highway Transportation Commission's (MHTC's) condemnations are for state highway system purposes and are not intended to relieve blight, this IP would not impact MHTC's condemnation cases.

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Officials from the **City of Jefferson** indicated because this petition would appear to require litigation of every nuisance claim, instead of currently available administrative proceedings, the cost to the city, should this ordinance become law, would be an estimated two hundred thousand dollars ($200,000) per year based upon 40 nuisance per year at $5,000 litigation cost per nuisance.

Officials from the **City of Kansas City** indicated it is difficult to measure the cost that this initiative would have on the city. The city protects the citizens' property values by prohibiting public nuisances that are in a broader category than public nuisances as defined by common law. It is not clear if costs for abatement include administrative and legal costs which the city is currently able to recover. By limiting their recovery to lien enforcement, the city's collection efforts are severely curtailed as demolition costs for dangerous buildings are a personal debt against the owner.

This initiative would decrease the citizens' property values, thereby decreasing our tax revenues, and dramatically decrease their collection revenue for nuisance abatement recovery. The annual cost to the city is in the millions.

Officials from the **City of Raymore** indicated the city does not anticipate any fiscal impact.

Officials from the **City of St. Joseph** indicated their response to 14-004 and 14-005 is the same as their response to 14-002 and 14-003:

The City of St. Joseph indicated the initiative petition would result in significant increases in cost and significant amounts of lost revenue to the city. In addition, the following related information was provided by the city. The initiative petition proposes changes to Article I, Sections 26, 27, and 28 that would prohibit the use of eminent domain for redevelopment by providing that: (a) only public entities can acquire property using eminent domain; (b) no private ownership or other private rights shall be considered a public use; (c) the future use must be declared at the time of acquisition and cannot be changed; and (d) the public entity that acquired the property via eminent domain cannot transfer such property to private ownership any sooner than twenty (20) years following the acquisition unless the original owner has been offered the right to buy back the property at the original price or unless the

private owner is providing products or services incidental to the function of a publicly owned facility.

The changes to Article VI, Section 21, effectively strips out the ability of local governments to use eminent domain for redevelopment that involves private entities. These proposed changes will result in both extreme costs and extreme loss of revenue to the City. The city uses eminent domain sparingly. But it is a very important tool that is vital in their efforts to overcome hundreds of acres of blight caused by five decades of suburban flight.

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Eminent domain is needed to eradicate the vacant, abandoned, dangerous and problem properties that were left behind 25% of St. Joseph's population left.

Private participation in the redevelopment process is necessary because the city does not have the resources to acquire the thousands of problem properties in the city, eliminate the problematic conditions, and hold the property for twenty (20) years. These properties were never used for governmental purposes and were not intended for governmental use. The city does not wish to—and cannot afford to—use public funds and eminent domain to purchase these properties, use public funds to redevelop them—and then own them and operate them for what are essentially private business and residential purposes for a twenty-year period. As provided in the proposed amendment, the city will not even be able to enlist the assistance of private enterprise in the operation of the properties or to realize any income from the property to offset the expense of acquiring and redeveloping it for the twenty-year period, because the proposed amendment prohibits the property from being "sold, leased, transferred, or otherwise made available for use by a private party within 20 years of such taking…unless the private owner is providing products or services incidental to the function of a publicly owned facility." Private redevelopment and ownership will allow the city to rebuild its tax base; public ownership for a twenty-year period, on the other hand, will cost the city millions upon millions of dollars and result a veritable wasteland for two decades since it will not be possible for the city to use the property in any manner that allows the city to recoup even a portion of its investment—if it were even possible for the city to make the investment in the first place. Since city funds are not available, it will not possible to address these conditions with the limited and weak mechanisms that will remain if the amendment passes. Thus, the proposed amendment would sentence the city to another five—and more—decades of decline, disinvestment and population loss as people and businesses again leave the city because they cannot tolerate negative conditions that the city is powerless to change. The city

needs to rebuild the market for city real estate and rebuild its tax base in the process—the proposed amendment would make it impossible for the city to do this.

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project design, and an alternative decision being made by a jury. This would require the unit of government to re-design the project according to the direction of the jury, and regardless of the technical merit and cost-effectiveness of that decision. Aside from the financial impact of the delays involved, re-design would expose government to re-paying for the same design, typically 10% of the project budget. In St. Joseph, the impact would be as follows:

- $150,000.000 CSO Program x 10% = $15,000,000 in additional design fees over 20 years
- $50,000,000 Road Projects x 10% = $5,000,000 in additional design fees over 10 years

Section 26 also makes significant changes to the requirements of appraisals. On federal projects, and per state law now, appraisals are required to be made by licensed professionals. The intent is that for appraisals to consistently follow prescribed methodology, be objective, consistent, and defensible. The change to allow appraisals to conform with "methods typical to the ordinary course of business" essentially throws this professional approach out. If this change were made, a multitude of methods may be accepted, throwing valuation into a much higher level that is made without basis in fact. St. Joseph typically has experienced differences between trained individuals and the lay community at 50% or more. Over the next twenty years, the following would be expected:

- $9,000,000 – value of CSO property/easement acquisition x 50% escalation = $4,500,000 extra that taxpayers would have to needlessly pay for a public project.
- $5,000,000 – value of Road Projects property/easement acquisition x 50% escalation = $2,500,000 extra that taxpayers would have to needlessly pay for a public project

Section 28.4 has the potential for a massive abuse. It is not at all unusual for property owners to declare that they will not be able to utilize a property if not all of it is purchased, stating that the balance of the property not required would be an uneconomic remnant. Many governments, to avoid the creation or claim of such a condition, purchase the entire parcel, construct their improvement, and the re-sell the balance of the property that was not needed in the first place.

Under the provisions of 28.4, a property owner has the potential to realize a profit twice on a property. The first, being the sale of property the government didn't originally need but acquired at the insistence of a property owner. The second, from a sole-source arrangement wherein he can re-purchase at the lower rate after improvements have been made to the property (when it would be worth more via the virtue of having a new road, new utilities, grading/clearing, etc. that was necessary for the project.) Taxpayers are hurt initially having to buy more property than needed, but can't realize the benefit of that investment by being required to sell a property back at the pre-developed rate. This type of issue is claimed on approximately 10% of all property acquisition activities as follows:

- $14,000,000 (value of all property activities) x 10% = $1,400,000

- $1,400,000 x 50% (value of properties purchased at insistence of owners) = $700,000
- $700,000 x 25% (enhanced value typical of "unusable" property after a project) = $175,000

- Total lost $875,000

One of the basic reasons that local government exists is to provide public services and construct and maintain public infrastructure. The proposed changes to the constitution would fundamentally alter these basic tenets of government, destroying the ability of government to plan for the future and to construct projects. In the time given to comment, St. Joseph was not able to compute the far-reaching and more significant impacts to a community that can't grow, can't improve itself, and can't provide the basic elements that its citizens, prospective businesses, and prospective citizens expect and require. The lost employment and resident opportunities are significant.

Total impacts for St. Joseph would be: $37,375,000.00

Officials from the **City of Wentzville** indicated no fiscal impact as any costs would be recovered through the lien process.

Officials from **Linn State Technical College** indicated these changes should not have an estimated cost or savings to their college.

Officials from **Metropolitan Community College** indicated this would have no direct fiscal impact on their college.

Officials from **University of Missouri** indicated this petition applies to local government and does not appear to apply to the university.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District,** and **St. Louis Community College.**

Fiscal Note Summary

The total cost or savings to state or local governmental entities is unknown. Most state governmental entities estimate the proposal results in no fiscal impact; however, some state entities reported potential unknown fiscal impact or costs. The estimated costs, if any, to local governmental entities could be significant.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-006)

Subject

Initiative petition from Aaron Malin regarding a proposed amendment to Chapter 213 of the Revised Statutes of Missouri. (Received November 19, 2012)

Date

December 7, 2012

Description

This proposal would amend Chapter 213 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources. They may seek additional appropriations if there is a significant increase in the number of complaints filed with the Missouri Commission on Human Rights after the adoption of the proposal.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated it is anticipated by the department that the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated "unknown" per each year for their department.

They indicated this proposed initiative petition alters the definition of "discrimination" as it is used in Chapter 213 by expanding it to include unfair treatment on the basis of sexual orientation and gender identity, with a qualification that the expansion shall not place a burden on an individual's religious beliefs. By adding these two protected classes, their department may receive Missouri Commission on Human Rights' complaints alleging sexual orientation/gender identity discrimination, which, if determined to be founded by the Commission, could result in civil penalties and subsequent litigation costs for their department. As costs cannot be estimated, the fiscal impact is unknown per each fiscal year.

Officials from the **Department of Labor and Industrial Relations** indicated:

This petition proposes to prohibit discrimination based upon a person's sexual orientation in housing, employment and places of public accommodations. It is not possible to predict the number of additional cases this change would add to the Missouri Commission on Human Rights' (MCHR's) caseload. However, MCHR estimates based on statistics from eight (8) agencies in states that cover sexual orientation in their civil rights laws, that sexual orientation cases filed would comprise approximately 4.0% of MCHR's caseload.

From fiscal year 2002 to fiscal year 2012, MCHR had 20.5 full time equivalent positions cut from its budget and the workload has not decreased. Therefore, the ability of the MCHR to carry out any additional responsibilities is problematic. The MCHR received 1,854 complaints in fiscal year 2012. If this caseload increased by 4.0% due to adding sexual orientation as a protected category, it would add 75 additional complaints annually. The department estimates at minimum MCHR would need 2 additional FTEs to absorb the added workload, one human relations officer and one office support assistant. The salary plus fringe benefits would be $89,716 in fiscal year 2014, $106,359 in fiscal year 2015 and $107,447 in fiscal year 2016.

Officials from the **Department of Revenue** indicated the department has not defined a specific fiscal impact related to this initiative petition.

The department has the following comments on the initiative petition:

The change to Section 213.010(5) expands the provision of the Missouri Human Rights Act to include sexual orientation and gender identity as protected classes under the Act. Pursuant to Executive Order 10-24, sexual orientation has been considered a protected class for executive agencies since July 9, 2010. However, by including this language in the MHRA, these protected classes now have the right to pursue civil litigation if the individual believes he or she has been discriminated against based on his or her sexual orientation or gender identity. If a claim is filed against the department, it will require time and expense to defend these claims.

The term "gender identity" is not defined by the petition. This phrase is vague in many respects and should be more specifically defined as what constitutes a "gender identity."

Officials from the **Department of Public Safety** indicated they assume that any costs associated with this proposal, if approved by the voters, can be absorbed with existing resources.

Officials from the **Department of Social Services** indicated:

Executive Order 10-24 already includes sexual orientation as a protected category regarding discrimination in employment for state agencies.

According to the EEOC, any employer who discriminates against an employee or applicant on the basis of the person's gender identity is violating the prohibition on sex discrimination contained in Title VII of the Civil Rights Act of 1964.

The department abides by all state and federal laws including Executive Order 10-24 relating to employment practices and already has a policy in place in regards to employment discrimination. No impact is anticipated from a human resource perspective.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there is no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Columbia** indicated their staff suggests this would actually save resources for local government as the State Commission on Human Rights would have the ability to investigate these complaints. At this time they fully investigate complaints of discrimination based on sexual orientation and gender identity as these are not protected categories at the state level. It costs an average $600 to investigate a case.

Officials from the **City of Jefferson** indicated they do not anticipate any fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated this initiative has no fiscal impact on the city.

Officials from the **City of St. Joseph** indicated there is no fiscal impact one way or the other with this petition.

Officials from the **City of Wentzville** indicated no fiscal impact to the city.

Officials from **Cape Girardeau 63 School District** indicated there would be no cost or savings to their district.

Officials from **Linn State Technical College** indicated these changes should not have an estimated cost or savings to their college.

Officials from **Metropolitan Community College** indicated this petition would have no direct fiscal impact on their college.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation,** the **Office of the State Public Defender, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Hannibal 60 School District, Rockwood R-VI School District, University of Missouri, and St. Louis Community College**.

Fiscal Note Summary

No or limited estimated costs or savings are expected by local governmental entities. Estimated annual costs to state governmental entities would be at least $89,000 with the total potential annual costs being unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-014)

Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received December 10, 2012)

Date

December 31, 2012

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Lara Granich provided information as a proponent of the proposal to the State Auditor's office.

Edward D. Greim provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated they are deferring to the Office of Administration - Division of Budget and Planning for the fiscal impact on the minimum wage provisions of this petition. There is no fiscal impact to their department from the other portions of the petition.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated they defer to the Office of Administration - Division of Budget and Planning.

Officials from the **Department of Higher Education** indicated they assume that in addition to direct personnel costs estimated by the Office of Administration for this request for state employees, the proposal would have an unknown negative fiscal impact on their department as its provisions would most likely result in an unknown cost increase for products and services purchased by their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration - Division of Budget and Planning for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration - Division of Budget and Planning.

Officials from the **Department of Natural Resources** indicated that per instructions from the Office of Administration, they defer to them for statewide response to this initiative petition.

Officials from the **Department of Corrections** indicated they have no impact for this initiative petition.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated employees of their department that would potentially be affected by this initiative petition would be our temporary Tax Season Employees.

An increase in minimum wage to $8.40 would be a $.90 increase for all employees that receive the current minimum wage. A $.90 increase would result in an increase on their departments' personal services budget (Taxation's temporary tax season) by approximately $37,200 per year.

Officials from the **Department of Social Services** provided the following division comments:

Officials from the Division of Youth Services (DYS) indicated a total estimated net effect on all funds for fiscal year 2015 of (unknown > $21,800/$43,600) and for fiscal year 2016 of (unknown > $43,600/$87,200).

They provided the following comments:

This petition would impact the Division of Youth Services in several ways. The division has a work experience program which youth are employed at minimum wage in various work activities. This legislation would decrease the number of youth who could participate in the program and/or the number of hours worked per youth.

The division has 32 residential facilities and 8 day treatment facilities. These facilities purchase a variety of goods and services. An increase in minimum wage would lead to an increased cost of goods and services. According to Econ Papers. RePEc. 06, November, 2012. http://econpapers.repec.org/paper/agsuersab/33598.htm, a bulletin from the United States Department of Agriculture, Economic Research Service, states for every $.50 increase in minimum wage, food prices would increase less than one percent from food stores and one percent at eating and drinking establishments if the total increase is passed on to consumers.

This could lead to an impact of approximately $43,600 yearly to the division if the minimum wage were set at $8.40, $8.45, or $8.50 (approximately a $1.00 increase over the existing rate of $7.35, effective 1/1/13). The fiscal impact would be approximately doubled ($87,200) if the minimum wage were to be set at $9.25 ($9.25 – $7.35 = $1.90 increase).

The division assumes there will be increased prices of other goods and services, however, is unable to calculate the increase.

Officials from the Division of Youth Services spent $2,179,988 for food related items in fiscal year 12. If the minimum wage increase lead to a 1% increase in cost per $.50 increase in minimum wage, the annual impact would be $43,600 at the $8.40, $8.45, and $8.50 levels and $87,200 at the $9.25 level.

It is assumed other product and service cost would increase; however, the amount is unknown, therefore the Division estimates an impact of unknown but greater than $43,600 for IP 14-014, IP 14-015, and IP 14-016 and $87,200 for IP 14-017.

If any of these initiative petitions were to pass, the new minimum wage rate would be effective January 1, 2015. Therefore, in FY 15 only half the estimated annual impact ($21,800 or $43,600) is shown on the accompanying spreadsheet.

DYS food expenses are paid from three funds: 8% from General Revenue; 58% from 0610 (federal funds) and 34% from 0620 (DSS educational improvement fund).

The Children's Division (CD) indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 may impact the Children's Division in two ways: Eligibility for the child care program, and costs charged by vendors who employ people paid minimum wage.

This section would increase the amount of gross income received by some participants of the Children's Division child care program. The CD is unable to determine how many participants may be affected by raising the state minimum wage to $8.40 per hour. However, since the child care program is income based, this may result in some participants who receive the higher state minimum wage to now exceed the income limits, which would result in loss of child care program benefits. Some participants who receive the higher state minimum wage may continue to be eligible for benefits, but at a reduced level.

Vendors may also be impacted. While some vendors with whom the Children's Division contracts may employ individuals who are paid minimum wage, CD would not automatically increase rates paid to those contractors as a result of this legislation. It could be expected; however, that at the times such contracts were re-bid, vendors would increase their pricing to cover such an increase.

The Children's Division does not expect to be immediately fiscally impacted by the changes proposed in this initiative petition.

Officials from the Family Support Division (FSD) indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 would increase the amount of gross income received by some participants of the Family Support Division's programs. The FSD is unable to determine how many participants may be affected by raising the state minimum wage to $8.40 per hour. However, since these programs are income based, this may result in some

participants who receive the higher state minimum wage to now exceed the income limits, which would result in loss of program benefits. Some participants who receive the higher state minimum wage may continue to be eligible for program benefits, but at a reduced level. These programs include, but are not limited to:

- Food Stamp benefits;
- Temporary Assistance;
- MO HealthNet coverage; and
- Low-Income Home Energy Assistance.

Officials from the Information Technology Services Division indicated a total estimated net effect on all funds for fiscal year 2015 of $0 and for fiscal year 2016 of $0.

They provided the following comments:

This Initiative Petition would require annual changes to the State Minimum Wage amounts for the Family Assistance Management Information System (FAMIS) and the Missouri Work Assistance (MWA) program.

The changes to the State Minimum Wage amounts are considered regular annual maintenance for these systems and incur no additional costs.

Officials from the Family Support Division (FSD) Child Support indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 would increase the amount of some parents' gross income used for child support guideline calculations, resulting in a higher child support obligation amount on an unknown number of cases. Higher child support obligation amounts would likely result in both increased child support collections and increased past–due child support debt (arrearages). FSD is unable to quantify expected collection and arrearage increases.

Officials from the MO HealthNet Division indicated a total estimated net effect on all funds for fiscal year 2015 of ($21,389,311) and for fiscal year 2016 of ($44,446,987).

They provided the following comments:

FQHC (Federally Qualified Health Clinic) and RHC (Rural Health Clinic) are currently reimbursed based on a percentage of billed charge with cost settlements at a future date. These cost settlements could include an increase in approximately 3 to 4 years after an increase in minimum wage, however, the amount is unknown.

For Hospitals MO HealthNet bases reimbursement for a given year on the fourth prior year cost report trended forward. Since the first requirement is effective January 1, 2015, the increased cost would begin to be reflected in 2015 cost reports. MO HealthNet would

use 2015 cost reports to establish reimbursement for state fiscal year 2019. Therefore there would not be a fiscal impact to the MO HealthNet Division for fiscal years 2014, 2015, and 2016, but starting fiscal year 2019 there could be a cost, but the amount is unknown.

For Nursing Facilities no fiscal impact in 2014; $21,389,311 (GR $8,121,521) for 2015 (computed by taking projected Medicaid days times prior allowed per diem increase divided by 6 months since goes into effect January 1, 2015) and $44,446,987 (GR $16,876,521) for 2016. 3.9% trend used for 2016. Money must be allocated by legislature for rate increases. See long range implications.

OA will handle the fiscal impact for all state employee costs of raising the state minimum wage.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated no direct fiscal impact to their agency, but there is unknown impact on their cost of doing business.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated:

This proposed amendment raises the state's minimum wage to $8.40 per hour or the federal minimum wage rate, whichever is higher, beginning January 1, 2015.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US BLS, in 2011, Missouri had 109,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. According to OA's Division of Personnel, as of December 2012 there were 1,260 employees that would be impacted by increasing the minimum wage to $8.40 per hour. The estimated annual cost of increasing wages to $8.40 per hour is $726,667 ($91,273 GR) and $60,148 ($9,751 GR) in fringe benefits.

[1] http://www.bls.gov/cps/minwage2011tbls.htm#3

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **St. Louis County** indicated

In regard to Initiative Petition 14-014, St. Louis County estimates that an increase in the minimum wage to $8.40/hour would cost the County an additional $29,940 per year. The increase would only affect seasonal workers employed by the St. Louis County Department of Parks and Recreation.

ST. LOUIS COUNTY POSITIONS EARNING LESS THAN $8.40/HOUR

Position	Current Pay Rate	Difference w $8.40 minimum	3 Months per Season Employment	Additional Cost per Employee	# of Employees	Additional Cost
Day camp counselors	$7.25	$1.15	520	$598.00	30	$17,940.00
Ice rink guards*	$7.25	$1.20	400	$480.00	25	$12,000.00
GRAND TOTAL ADDITIONAL COSTS						**$29,940.00**

** Ice rink guard expenses are calculated separately at 20 hours per week for five months*

Officials from the **City of Columbia** indicated the proposal if passed is expected to cost the City of Columbia $95,226/year, this amount does not include fringe benefits.

Officials from the **City of Jefferson** indicated if this petition would become law, it would cost the city approximately $104,988 per year.

Officials from the **City of Kirkwood** indicated for 14-014, 14-015, 14-016, and 14-017 their response is the same. While the dollar impact may change, the fiscal impact remains the same.

The estimate of the impact of this proposed change in the minimum wage is based on the premise that in order to remain competitive the city would increase across the board the hourly rates for all part time and seasonal personnel by the difference between the current minimum wage and the new proposed wage level. Based on the premise the costs would be as follows:

25,760 hours x $1.10 = $28,336 plus social security and Medicare adds another $2,170 = roughly $30,500. Add another $370 for those who qualify for pension benefits and the total comes to $30,870.

What this number does not take into consideration what potential increases we might have with contractual services providers such as Midwest Pool Management. If such providers find it necessary to increase their salaries in order to remain competitive, it could increase our costs. Based just on Midwest's current situation that could add upwards of $24,000 to our cost. It would take a considerable amount of time to try to determine what the impact throughout our operation would be in this regard.

It looks like the biggest impact on the city will be in the Recreation Department. Minimum wage hires are done mostly in Day Camp, Tennis, and Pool. There were approximately 28 minimum wage hires this summer in Recreation.

Other summer hires in Water, Parks & Streets usually hire above the minimum.

Officials from the **City of Wentzville** indicated:

This would be harmful to the City of Wentzville, meaning at least $16,000 in payroll costs for the part time employees, mostly kids, that the city hires to work each summer in Parks, plus the effect on those higher full time employees so that there is separation in our pay plan.

Officials from **Linn State Technical College** indicated these changes could have an estimated cost of $50,000 to Linn State Technical College.

Officials from **Metropolitan Community College** indicated an increase in the Missouri minimum wage to $8.40/hour would cost the Metropolitan Community College approximately $215,000.

Officials from **University of Missouri** indicated they are unable to determine the financial impact of the proposed amendment to the Revised Statutes of Missouri because they do not know which version of the petition would go to the voters, but believe this proposal would have significant financial liability for the University.

Lara Granich provided the following information as a proponent of this initiative petition.

December 20, 2012

Missouri State Auditor
Jefferson City, MO

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions
Version 5 (Increase to $8.40)
Version 6 (Increase to $8.45)
Version 7 (Increase to $8.50)
Version 8 (Increase to $9.25)

This letter is from Lara Granich and Missouri Jobs with Justice, proponents of the above-captioned initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the following four proposed Minimum Wage Initiative Petitions:

- Version 5, which would increase Missouri's minimum wage to $8.40 effective January 2015
- Version 6, which would increase Missouri's minimum wage to $8.45 effective January 2015
- Version 7, which would increase Missouri's minimum wage to $8.50 effective January 2015
- Version 8, which would increase Missouri's minimum wage to $9.25 effective January 2015

Our analysis estimates the impact of the four proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We have not included in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases. See Section IV – Additional Considerations.

We estimate that, under the four versions of the petition, state and local income and sales tax revenue will increase as follows:

Version	Minimum Wage Increase to	Increased State and Local Sales and Personal Income Tax Revenue
5	$8.40	$8,841,809
6	$8.45	$9,932,749
7	$8.50	$11,052,292
8	$9.25	$34,556,387

I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

To estimate the impact of the proposed minimum wage initiative petition on state and local government, the first thing that we have done is to determine how many employees state-wide will be affected, and how many millions of dollars in total wage increases they will receive. From these total increased wage figures one can then estimate the portion that will be spent on goods and services on which state sales tax is charged, generating increased sales tax revenue. And one similarly can estimate the portion of the increased wages that will be received by individuals who are subject to Missouri's income tax, resulting in increased income tax revenue.

The Economic Policy Institute (EPI) prepared and provided us with estimates of the number of workers affected and the total resulting wage increases for Versions 5, 6, 7 and 8. Our calculations are based on the EPI estimates.

We should note, however, that the above estimates of increased state and local sales and personal income tax revenue do not include additional state and local tax revenue that will be generated by tipped workers who will receive raises, many of whom are not captured in our wage increase analysis because their earnings are above the proposed value of the minimum wage and the likely range of related spillover effects, and who will receive a greater increase under the proposed measures than other employees. Additional state and local tax revenue is likely greater than we estimate once these tipped workers are factored in.

Below are the EPI estimates:

Effects of Missouri Minimum Wage Increases									
Proposed Minimum Wage Level 1/1/2015	Size of Increase	Total Estimated Workers[1]	Directly Affected[2]	Indirectly Affected[3]	Total Affected	Total Affected as % of Workers	Total Wage Increase[4]	GDP Impact[5]	Jobs Impact - Full-time Employment (job years)[6]
$8.40*	$0.80	2,585,000	169,000	141,000	310,000	12.0%	$ 135,290,000	$ 85,639,000	745
$8.45	$0.85	2,585,000	174,000	142,000	316,000	12.2%	$ 151,983,000	$ 96,205,000	840
$8.50	$0.90	2,585,000	175,000	151,000	326,000	12.6%	$ 169,113,000	$ 107,049,000	930
$9.25	$1.65	2,585,000	314,000	275,000	589,000	22.8%	$ 528,754,000	$ 334,701,000	2,900

Notes: *All scenarios model an increase in January 2015 above the legislated indexed increases for 2014 and 2015. The CBO projects inflation, as measured by the Consumer Price Index (CPI), to be 1.4% in 2013 and 1.8% in 2014. This would cause the MO state minimum wage to go from $7.35 to $7.45 in 2014, and from $7.45 to $7.60 in 2015. Thus, these four scenarios model increases above a minimum wage of $7.60 per hour.

Assumed annual population growth: 0.686% (MO projected average annual rate from 2010 to 2015, according to MO Office of Administration http://oa.mo.gov/bp/projections/data.htm)

Assumed annual wage growth: 2.3% (MO annual average of the bottom 20% of wage earners from 2002-2006 according to CPS ORG)

[1]Total estimated workers is estimated from the 2011 CPS respondents for whom either a valid hourly wage is reported or one can be imputed from weekly earnings and average weekly hours. Consequently, this estimate tends to understate the size of the full workforce.

[2]Directly Affected workers will see their wages rise as the new minimum wage rate will exceed their current hourly pay.

[3]Indirectly affected workers have a wage rate just above the new minimum wage (between the new minimum wage and the new minimum wage plus the dollar amount of the increase in the previous year's minimum wage). They will receive a raise as employer pay scales are adjusted upward to reflect the new minimum wage.

[4] Total annual amount of increased wages for directly and indirectly affected workers.

[5]GDP and job stimulus figures utilize a national model to estimate the GDP impact of workers' increased earnings. Thus the total state stimulus may be lower than this amount because workers in each state will not necessarily spend all of their increased earnings in-state. However, we can assume that most of the increased earnings will be spent in-state, and thus most of the jobs created will be in-state. Jobs numbers assume full-time employment requires $115,000 in additional GDP.

[6]The increased economic activity from these additional wages adds not just jobs but also hours for people who already have jobs (work hours for people with jobs also dropped in the downturn). Full-time employment takes that into account, by essentially taking the number of total hours added (including both hours from new jobs and more hours for people who already have jobs) and dividing by 40, to get full-time-equivalent jobs added.

Job impact estimation methods can be found in: Hall, Doug and Cooper, David. 2012. How raising the federal minimum wage would help working families and give the economy a boost. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/ib341-raising-federal-minimum-wage/ and Bivens, Josh L. 2011. Method memo on estimating the jobs impact of various policy changes. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/methodology-estimating-jobs-impact/

Source: EPI Analysis of 2011 Current Population Survey, Outgoing Rotation Group

II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that moderate increases in the minimum wage – such as those under consideration here – have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results.
(Source: Doucouliagos, Hristos and T. D. Stanley. 2009. "Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis." British Journal of Industrial Relations, vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find "...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase..." (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport.

(Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44,

no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to moderate increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed moderate increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local sales and personal income tax revenue in Missouri. We project both the direct impact of the four minimum wage increase scenarios on such tax revenue, and the additional impact through a GDP multiplier effect.

Component 1: Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages

Personal Income Tax Revenue. In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;

2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;

3. The remaining 25% would, we assumed, would pay no additional Missouri income tax.

In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

Sales Tax Revenue. The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

Component 1: Increases in Sales and Personal Income Tax Revenue from Increased Wages							
Version	Minimum Wage Increase to	Total Wage Increase	State Sales Tax (4.225%)	Local Sales Tax (2.95%)	Total Sales Tax Revenue Increase	Personal Income Tax Revenue Increase	Total Sales and Personal Income Tax Revenue Increase
5	$8.40	$135,290,000	$1,429,001	$997,764	$2,426,764	$3,700,182	**$6,126,946**
6	$8.45	$151,983,000	$1,605,320	$1,120,875	$2,726,195	$4,156,735	**$6,882,930**
7	$8.50	$169,113,000	$1,786,256	$1,247,208	$3,033,464	$4,625,241	**$7,658,705**
8	$9.25	$528,754,000	$5,584,964	$3,899,561	$9,484,525	$14,461,422	**$23,945,947**

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012
If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

Component 2: Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Multiplier Effect

The above calculations estimated the income and sales tax revenue likely to be generated by the direct wage increases resulting from each version of the proposed minimum wage increases. In addition to those direct wage increases, economists recognize that when a public policy change results in increased consumer spending, that spending has a multiplier effect that generates more economic activity, increasing the Gross Domestic Product (GDP). Such increases in GDP are generally understood to result in combination of new jobs or expanded hours for workers (as businesses bring on more staff to meet the increased consumer demand), and increased business income (as a portion of the increased spending is retained as company and owner profits).

EPI has developed a formula for estimating these GDP multiplier effects resulting minimum wage increases. See Hall, Doug and Cooper, David. 2012. How raising the federal minimum wage would help working families and give the economy a boost. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/ib341-raising-federal-minimum-wage/ ; and Bivens, Josh L. 2011. Methods memo on estimating the jobs impact of various policy changes. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/methodology-estimating-jobs-impact/.

Using this methodology, EPI has estimated the GDP increase that would result from each of the four versions of the minimum wage petition. *See* Table 1 above. We estimate that 70% of the increased GDP would be allocated to increased worker wages (through new hiring and expanded hours). That in turn results in new state sales tax and personal income tax revenue, following the same formula that we used above in Component 1.

Based upon these assumptions we estimate the following impacts from the multiplier effect on personal income tax, and state and local sales tax revenues:

Component 2: Increases in Sales and Income Tax Revenue from Multiplier Effect							
Version	**Minimum Wage Increase to**	**GDP Increase**	**Portion Allocated to Wages (70%)**	**State Sales Tax (4.225%) on 25% of Wages**	**Local Sales Tax (2.95%) on 25% of Wages**	**Personal Income Tax Revenue Increase**	**Total Tax Revenue Increase**
5	$8.40	$85,639,000	$59,947,300	$633,193	$442,111	$1,639,559	**$2,714,863**
6	$8.45	$96,205,000	$67,343,500	$711,316	$496,658	$1,841,845	**$3,049,819**
7	$8.50	$107,049,000	$74,934,300	$791,494	$552,640	$2,049,453	**$3,393,587**
8	$9.25	$334,701,000	$234,290,700	$2,474,696	$1,727,894	$6,407,851	**$10,610,440**

Some increased GDP would result in increased corporate incomes. We have not calculated corporate income tax revenues because only a small percentage of Missouri firms report taxable income of greater than $25,000. See http://eparc.missouri.edu/Publication/HistTax/Section04/moct01.pdf

IV. Additional Considerations

A difficult task is estimating the increased state and local government wage and benefit costs that would result from this petition. An accepted methodology is to contact the state and local governmental bodies directly and have them report their actual projected wage costs. This would be the cost of raising the wages of any minimum wage state or local employees up from the rate that will be in effect under current law as of January 2015, which is currently projected to be $7.60.

However, it is also possible to generate estimates of increased state and local government wage costs using government data. But because of the very small number of Missouri state and local government workers actually surveyed in the government data sets, such estimates may not accurately capture – and, in fact, may substantially overstate – the likely impact on state and local workforce costs of the proposed petitions. We suggest that your office carefully scrutinize any such estimates that may be submitted and qualify them with appropriate language.

With regard to the possibility of lost corporate income tax revenue, as noted, only a very small percentage of Missouri firms report taxable income of greater than $25,000. This suggests that any claims by opponents of substantial revenue losses are overstated.

* * *

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,

Lara Granich
Missouri Jobs with Justice

Edward D. Greim provided information as an opponent of this initiative petition.

He said he is submitting this fiscal impact statement as an opponent of Initiative Petitions 2014-14 through -17. These initiatives would have a substantial negative fiscal impact on state and local governments. In March 2012, Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases, prepared a detailed study regarding the impact of a minimum wage increase to $8.25 per hour. That study is attached here as Exhibit A. Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. Based on Dr. Macpherson's methodology, which was not seriously questioned even by his opposing expert in litigation earlier this year, the even higher increases proposed by Petitions 2014-14 through -17 would have even higher negative fiscal impacts.

Proponents of the petition may again rely on data from political activist groups who claim that increases in the minimum wage, no matter how great, simply create new taxable income. But as even the proponents' expert admitted in his testimony earlier this year, those groups approach the issue with a political bias. See Exhibit B. Further, that sort of analysis only examines one side of the equation—workers' collection of increased wages—without considering the other side of the equation—that Missouri businesses have to pay those wages, lowering their taxable income and, at times, causing them to forego hiring or to cut employment. In any analysis of secondary employment and tax revenue effects, the Auditor should refrain from reviewing only half of the wage-employment equation.

Additionally, as the Auditor recognized at trial last year, the most important and most direct effect of a minimum wage increase is the amount of increased wages that will actually be paid by state and local entities. At the same time, the Auditor is now aware that only a very few of the hundreds of state and local agencies and entities who actually employ minimum wage workers will provide fiscal impact estimates. A more direct—and far more accurate—method of calculating the direct fiscal impact of a wage increase is to use the actual number of minimum wage workers who work for state and local government as calculated by the U.S. Census Bureau's CPS. The Auditor should augment the purely anecdotal "fiscal note" responses of state and local entities with this more accurate, robust, and fair estimate.

He provided the following information.

FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

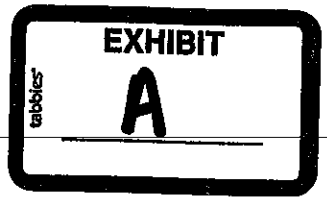
Prepared for

Victor Allred versus Robin Carnahan and Thomas Schweich
Circuit Court of Cole County, Missouri

Prepared by

David A. Macpherson, Ph.D.
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March 26, 2012



FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

IV. Fiscal Impact

A. Overview

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

B. Direct Labor Cost Impact on State and Local Government Budgets

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

C. Unemployment Benefit Impact

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

D. Impact on State Income Tax Revenue

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where Tax_After_i is the income tax paid by worker i after the minimum wage increase. Tax_Before_i is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

E. Impact on State and Local Sales Tax Revenue

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

Appendix A

Resume and Testimony of David A. Macpherson, Ph.D.

DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

Teaching Areas

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

Books

Economics: Private and Public Choice, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition), Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006,* 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

Contemporary Labor Economics, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

Pensions and Productivity, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

Journal Publications (Economics)

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

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"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

Journal Publications (Real Estate and Insurance)

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

Publications in Books

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

Working Papers (Economics)

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

Working Papers (Real Estate and Insurance)

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

Funded Projects

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

Participation in National Meetings

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

Participation in Regional Meetings

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

Participation in Invited Seminars, Conferences, and other Presentations

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

Refereeing

Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics, Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

Honors and Awards

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

Who's Who in Economics, Fourth Edition, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

Service

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

Theses, Extended Papers, and Dissertations

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

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Q. Did you talk with Mr. Grant or Ms. Haggard in preparing for this deposition?
A. I had a conference call with both of them yesterday afternoon.
Q. And generally whenever you've wanted some information or a report or data, have you been able to receive it?
A. From them?
Q. From them.
A. I'm not sure what kind of data you're talking about.
Q. Well, let me just ask you have they given you everything you've asked for?
A. Yes.
Q. So it's fair for me to assume that if there's something you didn't look at, it's not because they didn't give it to you. It's because you didn't ask for it from them?
A. Yes.
Q. Okay. I want to mop up a couple of things on your qualifications. I don't see that you teach any classes on labor economics.
A. Correct.
Q. And you know, at one point opposing counsel told me that a labor economist was being

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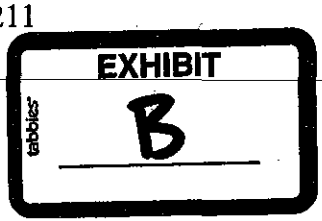
retained. I'm not sure if they were talking about you or if they didn't know who you were yet. Are you a labor economist?
A. I believe I am.
Q. What makes a labor economist?
A. Working in a variety of different labor-related issues over the past decade.
Q. Now before the last decade it looks like most of your work was with environmental and waste disposal issues; is that right?
A. Yeah, that's correct. That's what my dissertation was in.
Q. You've never given expert testimony on the minimum wage before, correct?
A. Correct.
Q. You've never had a publication in a peer reviewed journal?
A. No.
Q. Okay. And no publication, I guess, in a peer reviewed journal on the minimum wage?
A. No.
Q. Have you had any contact or interaction with NELK before you were retained in this matter?
A. No.
Q. With Jobs with Justice?

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A. No.
Q. Do you know who Jobs with Justice is?
A. Not really. I've heard of them, but I've never talked to them, or they have talked to me.
Q. How about the Economic Policy Institute? Any interaction with them before you were retained?
A. No.
Q. Do you know what the Economic Policy Institute is?
A. It's my understanding and general sense is that it publishes work on policy aspects across the wide spectrum of issues.
Q. Have you detected any political leanings in EPIs, for lack of -- so I don't have to say it over and over again -- in EPI's publications?
A. Could you repeat that?
Q. Sure. Have you detected any political leaning in EPI's publications?
A. Well, in terms of what small sample of stuff I've reviewed for them, they have a policy of leaning towards lower wage people, issues of income and equality and the like.
Q. Do you think it's important to consider political bias of sources that you rely upon?
A. Yeah, I believe it is.

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Q. How did you choose -- let's move to your index of materials.
(Whereupon, Deposition Exhibit Number 3 was marked by the reporter for identification.)
Q. (BY MR. GREIM) Okay. We've marked that as Exhibit 3. First of all, who prepared Exhibit 3?
MR. GRANT: What are you looking at, Eddie?
MR. GREIM: The articles relied upon by Dr. Kelsay.
MR. GRANT: Is that the index or --
MR. GREIM: It's Numbered 1 through 19, and the title is "Documents Relied Upon by Dr. Kelsay."
MR. GRANT: Okay.
Q. (BY MR. GREIM) Who prepared this document?
A. I did.
Q. When did you prepare it?
A. I'd have to look at my e-mails to determine that.
Well, I received a copy of an e-mail dated April 6th, and it said, "Could I, by early next week, send me an index," so I would guess it's a week or so later.



The State Auditor's office did not receive a response from the **Department of Health and Senior Services,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District,** and **St. Louis Community College**.

Fiscal Note Summary

Increased state and local government costs for wages, operating expenses, and programs could exceed an estimated $60 million annually. State and local government income and sales tax revenue could increase by an estimated $8.8 million annually.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-015)

Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received December 10, 2012)

Date

December 31, 2012

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Lara Granich provided information as a proponent of the proposal to the State Auditor's office.

Edward D. Greim provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated they are deferring to the Office of Administration - Division of Budget and Planning for the fiscal impact on the minimum wage provisions of this petition. There is no fiscal impact to their department from the other portions of the petition.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated they defer to the Office of Administration - Division of Budget and Planning.

Officials from the **Department of Higher Education** indicated they assume that in addition to direct personnel costs estimated by the Office of Administration for this request for state employees, the proposal would have an unknown negative fiscal impact on their department as its provisions would most likely result in an unknown cost increase for products and services purchased by their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration - Division of Budget and Planning for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration - Division of Budget and Planning.

Officials from the **Department of Natural Resources** indicated that per instructions from the Office of Administration, they defer to them for statewide response to this initiative petition.

Officials from the **Department of Corrections** indicated they have no impact for this initiative petition.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated employees of their department that would potentially be affected by this initiative petition would be our temporary Tax Season Employees.

An increase in minimum wage to $8.45 would be a $.95 increase for all employees that receive the current minimum wage. A $.95 increase would result in an increase on their departments' personal services budget (Taxation's temporary tax season) by approximately $39,300 per year.

Officials from the **Department of Social Services** provided the following division comments:

Officials from the Division of Youth Services (DYS) indicated a total estimated net effect on all funds for fiscal year 2015 of (unknown > $21,800/$43,600) and for fiscal year 2016 of (unknown > $43,600/$87,200).

They provided the following comments:

This petition would impact the Division of Youth Services in several ways. The division has a work experience program which youth are employed at minimum wage in various work activities. This legislation would decrease the number of youth who could participate in the program and/or the number of hours worked per youth.

The division has 32 residential facilities and 8 day treatment facilities. These facilities purchase a variety of goods and services. An increase in minimum wage would lead to an increased cost of goods and services. According to Econ Papers. RePEc. 06, November, 2012. http://econpapers.repec.org/paper/agsuersab/33598.htm, a bulletin from the United States Department of Agriculture, Economic Research Service, states for every $.50 increase in minimum wage, food prices would increase less than one percent from food stores and one percent at eating and drinking establishments if the total increase is passed on to consumers.

This could lead to an impact of approximately $43,600 yearly to the division if the minimum wage were set at $8.40, $8.45, or $8.50 (approximately a $1.00 increase over the existing rate of $7.35, effective 1/1/13). The fiscal impact would be approximately doubled ($87,200) if the minimum wage were to be set at $9.25 ($9.25 – $7.35 = $1.90 increase).

The division assumes there will be increased prices of other goods and services, however, is unable to calculate the increase.

Officials from the Division of Youth Services spent $2,179,988 for food related items in fiscal year 12. If the minimum wage increase lead to a 1% increase in cost per $.50 increase in minimum wage, the annual impact would be $43,600 at the $8.40, $8.45, and $8.50 levels and $87,200 at the $9.25 level.

It is assumed other product and service cost would increase; however, the amount is unknown, therefore the Division estimates an impact of unknown but greater than $43,600 for IP 14-014, IP 14-015, and IP 14-016 and $87,200 for IP 14-017.

If any of these initiative petitions were to pass, the new minimum wage rate would be effective January 1, 2015. Therefore, in FY 15 only half the estimated annual impact ($21,800 or $43,600) is shown on the accompanying spreadsheet.

DYS food expenses are paid from three funds: 8% from General Revenue; 58% from 0610 (federal funds) and 34% from 0620 (DSS educational improvement fund).

The Children's Division (CD) indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 may impact the Children's Division in two ways: Eligibility for the child care program, and costs charged by vendors who employ people paid minimum wage.

This section would increase the amount of gross income received by some participants of the Children's Division child care program. The CD is unable to determine how many participants may be affected by raising the state minimum wage to $8.45 per hour. However, since the child care program is income based, this may result in some participants who receive the higher state minimum wage to now exceed the income limits, which would result in loss of child care program benefits. Some participants who receive the higher state minimum wage may continue to be eligible for benefits, but at a reduced level.

Vendors may also be impacted. While some vendors with whom the Children's Division contracts may employ individuals who are paid minimum wage, CD would not automatically increase rates paid to those contractors as a result of this legislation. It could be expected; however, that at the times such contracts were re-bid, vendors would increase their pricing to cover such an increase.

The Children's Division does not expect to be immediately fiscally impacted by the changes proposed in this initiative petition.

Officials from the Family Support Division (FSD) indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 would increase the amount of gross income received by some participants of the Family Support Division's programs. The FSD is unable to determine how many participants may be affected by raising the state minimum wage to $8.45 per hour. However, since these programs are income based, this may result in some

participants who receive the higher state minimum wage to now exceed the income limits, which would result in loss of program benefits. Some participants who receive the higher state minimum wage may continue to be eligible for program benefits, but at a reduced level. These programs include, but are not limited to:

- Food Stamp benefits;
- Temporary Assistance;
- MO HealthNet coverage; and
- Low-Income Home Energy Assistance.

Officials from the Information Technology Services Division indicated a total estimated net effect on all funds for fiscal year 2015 of $0 and for fiscal year 2016 of $0.

They provided the following comments:

This Initiative Petition would require annual changes to the State Minimum Wage amounts for the Family Assistance Management Information System (FAMIS) and the Missouri Work Assistance (MWA) program.

The changes to the State Minimum Wage amounts are considered regular annual maintenance for these systems and incur no additional costs.

Officials from the Family Support Division (FSD) Child Support indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 would increase the amount of some parents' gross income used for child support guideline calculations, resulting in a higher child support obligation amount on an unknown number of cases. Higher child support obligation amounts would likely result in both increased child support collections and increased past–due child support debt (arrearages). FSD is unable to quantify expected collection and arrearage increases.

Officials from the MO HealthNet Division indicated a total estimated net effect on all funds for fiscal year 2015 of ($22,750,062) and for fiscal year 2016 of ($47,274,629).

They provided the following comments:

FQHC (Federally Qualified Health Clinic) and RHC (Rural Health Clinic) are currently reimbursed based on a percentage of billed charge with cost settlements at a future date. These cost settlements could include an increase in approximately 3 to 4 years after an increase in minimum wage, however, the amount is unknown.

For Hospitals MO HealthNet bases reimbursement for a given year on the fourth prior year cost report trended forward. Since the first requirement is effective January 1, 2015, the increased cost would begin to be reflected in 2015 cost reports. MO HealthNet would

use 2015 cost reports to establish reimbursement for state fiscal year 2019. Therefore there would not be a fiscal impact to the MO HealthNet Division for fiscal years 2014, 2015, and 2016, but starting fiscal year 2019 there could be a cost, but the amount is unknown.

For Nursing Facilities no fiscal impact in 2014; $22,750,062 (GR $8,638,199) for 2015 (computed by taking projected Medicaid days times prior allowed per diem increase divided by 6 months since goes into effect January 1, 2015) and $47,274,629 (GR $17,950,177) for 2016. 3.9% trend used for 2016. Money must be allocated by legislature for rate increases. See long range implications.

OA will handle the fiscal impact for all state employee costs of raising the state minimum wage.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated no direct fiscal impact to their agency, but there is unknown impact on their cost of doing business.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated:

This proposed amendment raises the state's minimum wage to $8.45 per hour or the federal minimum wage rate, whichever is higher, beginning January 1, 2015.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US BLS, in 2011, Missouri had 109,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. According to OA's Division of Personnel, as of December 2012 there were 1,273 employees that would be impacted by increasing the minimum wage to $8.45 per hour. The estimated annual cost of increasing wages to $8.45 per hour is $766,816 ($94,087 GR) and $63,573 ($10,214 GR) in fringe benefits.

[1] http://www.bls.gov/cps/minwage2011tbls.htm#3

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **St. Louis County** indicated

In regard to Initiative Petition 14-015, St. Louis County estimates that an increase in the minimum wage to $8.45/hour would cost the County an additional $30,720 per year. The increase would only affect seasonal workers employed by the St. Louis County Department of Parks and Recreation.

ST. LOUIS COUNTY POSITIONS EARNING LESS THAN $8.45/HOUR

Position	Current Pay Rate	Difference w $8.45 minimum	3 Months per Season Employment	Additional Cost per Employee	# of Employees	Additional Cost
Day camp counselors	$7.25	$1.20	520	$624.00	30	$18,720.00
Ice rink guards	$7.25	$1.20	400	$480.00	25	$12,000.00
GRAND TOTAL ADDITIONAL COSTS						**$30,720.00**

** Ice rink guard expenses are calculated separately at 20 hours per week for five months*

Officials from the **City of Columbia** indicated the proposal if passed is expected to cost the City of Columbia $99,760/year, this amount does not include fringe benefits.

Officials from the **City of Jefferson** indicated if this petition would become law, it would cost the city approximately $111,072 per year.

Officials from the **City of Kirkwood** indicated for 14-014, 14-015, 14-016, and 14-017 their response is the same. While the dollar impact may change, the fiscal impact remains the same.

The estimate of the impact of this proposed change in the minimum wage is based on the premise that in order to remain competitive the city would increase across the board the hourly rates for all part time and seasonal personnel by the difference between the current minimum wage and the new proposed wage level. Based on the premise the costs would be as follows:

25,760 hours x $1.10 = $28,336 plus social security and Medicare adds another $2,170 = roughly $30,500. Add another $370 for those who qualify for pension benefits and the total comes to $30,870.

What this number does not take into consideration what potential increases we might have with contractual services providers such as Midwest Pool Management. If such providers find it necessary to increase their salaries in order to remain competitive, it could increase our costs. Based just on Midwest's current situation that could add upwards of $24,000 to our cost. It would take a considerable amount of time to try to determine what the impact throughout our operation would be in this regard.

It looks like the biggest impact on the city will be in the Recreation Department. Minimum wage hires are done mostly in Day Camp, Tennis, and Pool. There were approximately 28 minimum wage hires this summer in Recreation.

Other summer hires in Water, Parks & Streets usually hire above the minimum.

Officials from the **City of Wentzville** indicated:

This would be harmful to the City of Wentzville, meaning at least $18,000 in payroll costs for the part time employees, mostly kids, that the city hires to work each summer in Parks, plus the effect on those higher full time employees so that there is separation in our pay plan.

Officials from **Linn State Technical College** indicated these changes could have an estimated cost of $55,000 to Linn State Technical College.

Officials from **Metropolitan Community College** indicated an increase in the Missouri minimum wage to $8.45/hour would cost the Metropolitan Community College approximately $225,000.

Officials from **University of Missouri** indicated they are unable to determine the financial impact of the proposed amendment to the Revised Statutes of Missouri because they do not know which version of the petition would go to the voters, but believe this proposal would have significant financial liability for the University.

Lara Granich provided the following information as a proponent of this initiative petition.

December 20, 2012

Missouri State Auditor
Jefferson City, MO

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions
Version 5 (Increase to $8.40)
Version 6 (Increase to $8.45)
Version 7 (Increase to $8.50)
Version 8 (Increase to $9.25)

This letter is from Lara Granich and Missouri Jobs with Justice, proponents of the above-captioned initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the following four proposed Minimum Wage Initiative Petitions:

- Version 5, which would increase Missouri's minimum wage to $8.40 effective January 2015
- Version 6, which would increase Missouri's minimum wage to $8.45 effective January 2015
- Version 7, which would increase Missouri's minimum wage to $8.50 effective January 2015
- Version 8, which would increase Missouri's minimum wage to $9.25 effective January 2015

Our analysis estimates the impact of the four proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We have not included in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases. See Section IV – Additional Considerations.

We estimate that, under the four versions of the petition, state and local income and sales tax revenue will increase as follows:

Version	Minimum Wage Increase to	Increased State and Local Sales and Personal Income Tax Revenue
5	$8.40	$8,841,809
6	$8.45	$9,932,749
7	$8.50	$11,052,292
8	$9.25	$34,556,387

I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

To estimate the impact of the proposed minimum wage initiative petition on state and local government, the first thing that we have done is to determine how many employees state-wide will be affected, and how many millions of dollars in total wage increases they will receive. From these total increased wage figures one can then estimate the portion that will be spent on goods and services on which state sales tax is charged, generating increased sales tax revenue. And one similarly can estimate the portion of the increased wages that will be received by individuals who are subject to Missouri's income tax, resulting in increased income tax revenue.

The Economic Policy Institute (EPI) prepared and provided us with estimates of the number of workers affected and the total resulting wage increases for Versions 5, 6, 7 and 8. Our calculations are based on the EPI estimates.

We should note, however, that the above estimates of increased state and local sales and personal income tax revenue do not include additional state and local tax revenue that will be generated by tipped workers who will receive raises, many of whom are not captured in our wage increase analysis because their earnings are above the proposed value of the minimum wage and the likely range of related spillover effects, and who will receive a greater increase under the proposed measures than other employees. Additional state and local tax revenue is likely greater than we estimate once these tipped workers are factored in.

Below are the EPI estimates:

Effects of Missouri Minimum Wage Increases									
Proposed Minimum Wage Level 1/1/2015	Size of Increase	Total Estimated Workers[1]	Directly Affected[2]	Indirectly Affected[3]	Total Affected	Total Affected as % of Workers	Total Wage Increase[4]	GDP Impact[5]	Jobs Impact - Full-time Employment (job years)[6]
$8.40*	$0.80	2,585,000	169,000	141,000	310,000	12.0%	$ 135,290,000	$ 85,639,000	745
$8.45	$0.85	2,585,000	174,000	142,000	316,000	12.2%	$ 151,983,000	$ 96,205,000	840
$8.50	$0.90	2,585,000	175,000	151,000	326,000	12.6%	$ 169,113,000	$ 107,049,000	930
$9.25	$1.65	2,585,000	314,000	275,000	589,000	22.8%	$ 528,754,000	$ 334,701,000	2,900

Notes: *All scenarios model an increase in January 2015 above the legislated indexed increases for 2014 and 2015. The CBO projects inflation, as measured by the Consumer Price Index (CPI), to be 1.4% in 2013 and 1.8% in 2014. This would cause the MO state minimum wage to go from $7.35 to $7.45 in 2014, and from $7.45 to $7.60 in 2015. Thus, these four scenarios model increases above a minimum wage of $7.60 per hour.

Assumed annual population growth: 0.686% (MO projected average annual rate from 2010 to 2015, according to MO Office of Administration http://oa.mo.gov/bp/projections/data.htm)

Assumed annual wage growth: 2.3% (MO annual average of the bottom 20% of wage earners from 2002-2006 according to CPS ORG)

[1]Total estimated workers is estimated from the 2011 CPS respondents for whom either a valid hourly wage is reported or one can be imputed from weekly earnings and average weekly hours. Consequently, this estimate tends to understate the size of the full workforce.

[2]Directly Affected workers will see their wages rise as the new minimum wage rate will exceed their current hourly pay.

[3]Indirectly affected workers have a wage rate just above the new minimum wage (between the new minimum wage and the new minimum wage plus the dollar amount of the increase in the previous year's minimum wage). They will receive a raise as employer pay scales are adjusted upward to reflect the new minimum wage.

[4] Total annual amount of increased wages for directly and indirectly affected workers.

[5]GDP and job stimulus figures utilize a national model to estimate the GDP impact of workers' increased earnings. Thus the total state stimulus may be lower than this amount because workers in each state will not necessarily spend all of their increased earnings in-state. However, we can assume that most of the increased earnings will be spent in-state, and thus most of the jobs created will be in-state. Jobs numbers assume full-time employment requires $115,000 in additional GDP.

[6]The increased economic activity from these additional wages adds not just jobs but also hours for people who already have jobs (work hours for people with jobs also dropped in the downturn). Full-time employment takes that into account, by essentially taking the number of total hours added (including both hours from new jobs and more hours for people who already have jobs) and dividing by 40, to get full-time-equivalent jobs added.

Job impact estimation methods can be found in: Hall, Doug and Cooper, David. 2012. How raising the federal minimum wage would help working families and give the economy a boost. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/ib341-raising-federal-minimum-wage/ and Bivens, Josh L. 2011. Method memo on estimating the jobs impact of various policy changes. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/methodology-estimating-jobs-impact/

Source: EPI Analysis of 2011 Current Population Survey, Outgoing Rotation Group

II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that moderate increases in the minimum wage – such as those under consideration here – have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results.
(Source: Doucouliagos, Hristos and T. D. Stanley. 2009. "Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis." British Journal of Industrial Relations, vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find "...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase..." (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport.

(Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44,

no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to moderate increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed moderate increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local sales and personal income tax revenue in Missouri. We project both the direct impact of the four minimum wage increase scenarios on such tax revenue, and the additional impact through a GDP multiplier effect.

Component 1: Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages

Personal Income Tax Revenue. In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;

2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;

3. The remaining 25% would, we assumed, would pay no additional Missouri income tax.

In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

Sales Tax Revenue. The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

Component 1: Increases in Sales and Personal Income Tax Revenue from Increased Wages							
Version	Minimum Wage Increase to	Total Wage Increase	State Sales Tax (4.225%)	Local Sales Tax (2.95%)	Total Sales Tax Revenue Increase	Personal Income Tax Revenue Increase	Total Sales and Personal Income Tax Revenue Increase
5	$8.40	$135,290,000	$1,429,001	$997,764	$2,426,764	$3,700,182	**$6,126,946**
6	$8.45	$151,983,000	$1,605,320	$1,120,875	$2,726,195	$4,156,735	**$6,882,930**
7	$8.50	$169,113,000	$1,786,256	$1,247,208	$3,033,464	$4,625,241	**$7,658,705**
8	$9.25	$528,754,000	$5,584,964	$3,899,561	$9,484,525	$14,461,422	**$23,945,947**

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012
If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

Component 2: Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Multiplier Effect

The above calculations estimated the income and sales tax revenue likely to be generated by the direct wage increases resulting from each version of the proposed minimum wage increases. In addition to those direct wage increases, economists recognize that when a public policy change results in increased consumer spending, that spending has a multiplier effect that generates more economic activity, increasing the Gross Domestic Product (GDP). Such increases in GDP are generally understood to result in combination of new jobs or expanded hours for workers (as businesses bring on more staff to meet the increased consumer demand), and increased business income (as a portion of the increased spending is retained as company and owner profits).

EPI has developed a formula for estimating these GDP multiplier effects resulting minimum wage increases. See Hall, Doug and Cooper, David. 2012. How raising the federal minimum wage would help working families and give the economy a boost. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/ib341-raising-federal-minimum-wage/ ; and Bivens, Josh L. 2011. Methods memo on estimating the jobs impact of various policy changes. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/methodology-estimating-jobs-impact/.

Using this methodology, EPI has estimated the GDP increase that would result from each of the four versions of the minimum wage petition. *See* Table 1 above. We estimate that 70% of the increased GDP would be allocated to increased worker wages (through new hiring and expanded hours). That in turn results in new state sales tax and personal income tax revenue, following the same formula that we used above in Component 1.

Based upon these assumptions we estimate the following impacts from the multiplier effect on personal income tax, and state and local sales tax revenues:

Component 2: Increases in Sales and Income Tax Revenue from Multiplier Effect							
Version	**Minimum Wage Increase to**	**GDP Increase**	**Portion Allocated to Wages (70%)**	**State Sales Tax (4.225%) on 25% of Wages**	**Local Sales Tax (2.95%) on 25% of Wages**	**Personal Income Tax Revenue Increase**	**Total Tax Revenue Increase**
5	$8.40	$85,639,000	$59,947,300	$633,193	$442,111	$1,639,559	**$2,714,863**
6	$8.45	$96,205,000	$67,343,500	$711,316	$496,658	$1,841,845	**$3,049,819**
7	$8.50	$107,049,000	$74,934,300	$791,494	$552,640	$2,049,453	**$3,393,587**
8	$9.25	$334,701,000	$234,290,700	$2,474,696	$1,727,894	$6,407,851	**$10,610,440**

Some increased GDP would result in increased corporate incomes. We have not calculated corporate income tax revenues because only a small percentage of Missouri firms report taxable income of greater than $25,000. See http://eparc.missouri.edu/Publication/HistTax/Section04/moct01.pdf

IV. Additional Considerations

A difficult task is estimating the increased state and local government wage and benefit costs that would result from this petition. An accepted methodology is to contact the state and local governmental bodies directly and have them report their actual projected wage costs. This would be the cost of raising the wages of any minimum wage state or local employees up from the rate that will be in effect under current law as of January 2015, which is currently projected to be $7.60.

However, it is also possible to generate estimates of increased state and local government wage costs using government data. But because of the very small number of Missouri state and local government workers actually surveyed in the government data sets, such estimates may not accurately capture – and, in fact, may substantially overstate – the likely impact on state and local workforce costs of the proposed petitions. We suggest that your office carefully scrutinize any such estimates that may be submitted and qualify them with appropriate language.

With regard to the possibility of lost corporate income tax revenue, as noted, only a very small percentage of Missouri firms report taxable income of greater than $25,000. This suggests that any claims by opponents of substantial revenue losses are overstated.

* * *

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,

Lara Granich
Missouri Jobs with Justice

Edward D. Greim provided information as an opponent of this initiative petition.

He said he is submitting this fiscal impact statement as an opponent of Initiative Petitions 2014-14 through -17. These initiatives would have a substantial negative fiscal impact on state and local governments. In March 2012, Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases, prepared a detailed study regarding the impact of a minimum wage increase to $8.25 per hour. That study is attached here as Exhibit A. Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. Based on Dr. Macpherson's methodology, which was not seriously questioned even by his opposing expert in litigation earlier this year, the even higher increases proposed by Petitions 2014-14 through -17 would have even higher negative fiscal impacts.

Proponents of the petition may again rely on data from political activist groups who claim that increases in the minimum wage, no matter how great, simply create new taxable income. But as even the proponents' expert admitted in his testimony earlier this year, those groups approach the issue with a political bias. See Exhibit B. Further, that sort of analysis only examines one side of the equation—workers' collection of increased wages—without considering the other side of the equation—that Missouri businesses have to pay those wages, lowering their taxable income and, at times, causing them to forego hiring or to cut employment. In any analysis of secondary employment and tax revenue effects, the Auditor should refrain from reviewing only half of the wage-employment equation.

Additionally, as the Auditor recognized at trial last year, the most important and most direct effect of a minimum wage increase is the amount of increased wages that will actually be paid by state and local entities. At the same time, the Auditor is now aware that only a very few of the hundreds of state and local agencies and entities who actually employ minimum wage workers will provide fiscal impact estimates. A more direct—and far more accurate—method of calculating the direct fiscal impact of a wage increase is to use the actual number of minimum wage workers who work for state and local government as calculated by the U.S. Census Bureau's CPS. The Auditor should augment the purely anecdotal "fiscal note" responses of state and local entities with this more accurate, robust, and fair estimate.

He provided the following information.

FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

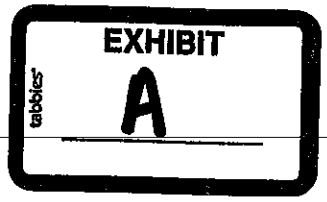
Prepared for

Victor Allred versus Robin Carnahan and Thomas Schweich
Circuit Court of Cole County, Missouri

Prepared by

David A. Macpherson, Ph.D.
125 Park Drive
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March 26, 2012



FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

IV. Fiscal Impact

A. Overview

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

B. Direct Labor Cost Impact on State and Local Government Budgets

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

C. Unemployment Benefit Impact

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

D. Impact on State Income Tax Revenue

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where Tax_After_i is the income tax paid by worker i after the minimum wage increase. Tax_Before_i is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

E. Impact on State and Local Sales Tax Revenue

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

Appendix A

Resume and Testimony of David A. Macpherson, Ph.D.

DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

Teaching Areas

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

Books

Economics: Private and Public Choice, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition), Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006,* 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

Contemporary Labor Economics, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

Pensions and Productivity, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

Journal Publications (Economics)

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

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"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

Journal Publications (Real Estate and Insurance)

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

Publications in Books

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

Working Papers (Economics)

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

Working Papers (Real Estate and Insurance)

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

Funded Projects

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

Participation in National Meetings

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

Participation in Regional Meetings

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

Participation in Invited Seminars, Conferences, and other Presentations

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

Refereeing

Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics, Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

Honors and Awards

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

Who's Who in Economics, Fourth Edition, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

Service

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

Theses, Extended Papers, and Dissertations

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

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Q. Did you talk with Mr. Grant or Ms. Haggard in preparing for this deposition?
A. I had a conference call with both of them yesterday afternoon.
Q. And generally whenever you've wanted some information or a report or data, have you been able to receive it?
A. From them?
Q. From them.
A. I'm not sure what kind of data you're talking about.
Q. Well, let me just ask you have they given you everything you've asked for?
A. Yes.
Q. So it's fair for me to assume that if there's something you didn't look at, it's not because they didn't give it to you. It's because you didn't ask for it from them?
A. Yes.
Q. Okay. I want to mop up a couple of things on your qualifications. I don't see that you teach any classes on labor economics.
A. Correct.
Q. And you know, at one point opposing counsel told me that a labor economist was being

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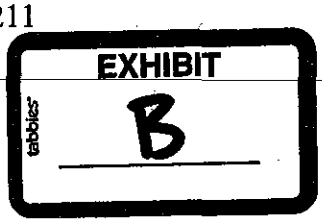
retained. I'm not sure if they were talking about you or if they didn't know who you were yet. Are you a labor economist?
A. I believe I am.
Q. What makes a labor economist?
A. Working in a variety of different labor-related issues over the past decade.
Q. Now before the last decade it looks like most of your work was with environmental and waste disposal issues; is that right?
A. Yeah, that's correct. That's what my dissertation was in.
Q. You've never given expert testimony on the minimum wage before, correct?
A. Correct.
Q. You've never had a publication in a peer reviewed journal?
A. No.
Q. Okay. And no publication, I guess, in a peer reviewed journal on the minimum wage?
A. No.
Q. Have you had any contact or interaction with NELK before you were retained in this matter?
A. No.
Q. With Jobs with Justice?

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A. No.
Q. Do you know who Jobs with Justice is?
A. Not really. I've heard of them, but I've never talked to them, or they have talked to me.
Q. How about the Economic Policy Institute? Any interaction with them before you were retained?
A. No.
Q. Do you know what the Economic Policy Institute is?
A. It's my understanding and general sense is that it publishes work on policy aspects across the wide spectrum of issues.
Q. Have you detected any political leanings in EPIs, for lack of -- so I don't have to say it over and over again -- in EPI's publications?
A. Could you repeat that?
Q. Sure. Have you detected any political leaning in EPI's publications?
A. Well, in terms of what small sample of stuff I've reviewed for them, they have a policy of leaning towards lower wage people, issues of income and equality and the like.
Q. Do you think it's important to consider political bias of sources that you rely upon?
A. Yeah, I believe it is.

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Q. How did you choose -- let's move to your index of materials.
(Whereupon, Deposition Exhibit Number 3 was marked by the reporter for identification.)
Q. (BY MR. GREIM) Okay. We've marked that as Exhibit 3. First of all, who prepared Exhibit 3?
MR. GRANT: What are you looking at, Eddie?
MR. GREIM: The articles relied upon by Dr. Kelsay.
MR. GRANT: Is that the index or --
MR. GREIM: It's Numbered 1 through 19, and the title is "Documents Relied Upon by Dr. Kelsay."
MR. GRANT: Okay.
Q. (BY MR. GREIM) Who prepared this document?
A. I did.
Q. When did you prepare it?
A. I'd have to look at my e-mails to determine that.
Well, I received a copy of an e-mail dated April 6th, and it said, "Could I, by early next week, send me an index," so I would guess it's a week or so later.



The State Auditor's office did not receive a response from the **Department of Health and Senior Services,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District,** and **St. Louis Community College**.

Fiscal Note Summary

Increased state and local government costs for wages, operating expenses, and programs could exceed an estimated $63 million annually. State and local government income and sales tax revenue could increase by an estimated $9.9 million annually.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-016)

Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received December 10, 2012)

Date

December 31, 2012

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Lara Granich provided information as a proponent of the proposal to the State Auditor's office.

Edward D. Greim provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated they are deferring to the Office of Administration - Division of Budget and Planning for the fiscal impact on the minimum wage provisions of this petition. There is no fiscal impact to their department from the other portions of the petition.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated they defer to the Office of Administration - Division of Budget and Planning.

Officials from the **Department of Higher Education** indicated they assume that in addition to direct personnel costs estimated by the Office of Administration for this request for state employees, the proposal would have an unknown negative fiscal impact on their department as its provisions would most likely result in an unknown cost increase for products and services purchased by their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration - Division of Budget and Planning for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration - Division of Budget and Planning.

Officials from the **Department of Natural Resources** indicated that per instructions from the Office of Administration, they defer to them for statewide response to this initiative petition.

Officials from the **Department of Corrections** indicated they have no impact for this initiative petition.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated employees of their department that would potentially be affected by this initiative petition would be our temporary Tax Season Employees.

An increase in minimum wage to $8.50 would be a $1.00 increase for all employees that receive the current minimum wage. A $1.00 increase would result in an increase on their departments' personal services budget (Taxation's temporary tax season) by approximately $41,400 per year.

Officials from the **Department of Social Services** provided the following division comments:

Officials from the Division of Youth Services (DYS) indicated a total estimated net effect on all funds for fiscal year 2015 of (unknown > $21,800/$43,600) and for fiscal year 2016 of (unknown > $43,600/$87,200).

They provided the following comments:

This petition would impact the Division of Youth Services in several ways. The division has a work experience program which youth are employed at minimum wage in various work activities. This legislation would decrease the number of youth who could participate in the program and/or the number of hours worked per youth.

The division has 32 residential facilities and 8 day treatment facilities. These facilities purchase a variety of goods and services. An increase in minimum wage would lead to an increased cost of goods and services. According to Econ Papers. RePEc. 06, November, 2012. http://econpapers.repec.org/paper/agsuersab/33598.htm, a bulletin from the United States Department of Agriculture, Economic Research Service, states for every $.50 increase in minimum wage, food prices would increase less than one percent from food stores and one percent at eating and drinking establishments if the total increase is passed on to consumers.

This could lead to an impact of approximately $43,600 yearly to the division if the minimum wage were set at $8.40, $8.45, or $8.50 (approximately a $1.00 increase over the existing rate of $7.35, effective 1/1/13). The fiscal impact would be approximately doubled ($87,200) if the minimum wage were to be set at $9.25 ($9.25 – $7.35 = $1.90 increase).

The division assumes there will be increased prices of other goods and services, however, is unable to calculate the increase.

Officials from the Division of Youth Services spent $2,179,988 for food related items in fiscal year 12. If the minimum wage increase lead to a 1% increase in cost per $.50 increase in minimum wage, the annual impact would be $43,600 at the $8.40, $8.45, and $8.50 levels and $87,200 at the $9.25 level.

It is assumed other product and service cost would increase; however, the amount is unknown, therefore the Division estimates an impact of unknown but greater than $43,600 for IP 14-014, IP 14-015, and IP 14-016 and $87,200 for IP 14-017.

If any of these initiative petitions were to pass, the new minimum wage rate would be effective January 1, 2015. Therefore, in FY 15 only half the estimated annual impact ($21,800 or $43,600) is shown on the accompanying spreadsheet.

DYS food expenses are paid from three funds: 8% from General Revenue; 58% from 0610 (federal funds) and 34% from 0620 (DSS educational improvement fund).

The Children's Division (CD) indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 may impact the Children's Division in two ways: Eligibility for the child care program, and costs charged by vendors who employ people paid minimum wage.

This section would increase the amount of gross income received by some participants of the Children's Division child care program. The CD is unable to determine how many participants may be affected by raising the state minimum wage to $8.50 per hour. However, since the child care program is income based, this may result in some participants who receive the higher state minimum wage to now exceed the income limits, which would result in loss of child care program benefits. Some participants who receive the higher state minimum wage may continue to be eligible for benefits, but at a reduced level.

Vendors may also be impacted. While some vendors with whom the Children's Division contracts may employ individuals who are paid minimum wage, CD would not automatically increase rates paid to those contractors as a result of this legislation. It could be expected; however, that at the times such contracts were re-bid, vendors would increase their pricing to cover such an increase.

The Children's Division does not expect to be immediately fiscally impacted by the changes proposed in this initiative petition.

Officials from the Family Support Division (FSD) indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 would increase the amount of gross income received by some participants of the Family Support Division's programs. The FSD is unable to determine how many participants may be affected by raising the state minimum wage to $8.50 per hour. However, since these programs are income based, this may result in some

participants who receive the higher state minimum wage to now exceed the income limits, which would result in loss of program benefits. Some participants who receive the higher state minimum wage may continue to be eligible for program benefits, but at a reduced level. These programs include, but are not limited to:

- Food Stamp benefits;
- Temporary Assistance;
- MO HealthNet coverage; and
- Low-Income Home Energy Assistance.

Officials from the Information Technology Services Division indicated a total estimated net effect on all funds for fiscal year 2015 of $0 and for fiscal year 2016 of $0.

They provided the following comments:

This Initiative Petition would require annual changes to the State Minimum Wage amounts for the Family Assistance Management Information System (FAMIS) and the Missouri Work Assistance (MWA) program.

The changes to the State Minimum Wage amounts are considered regular annual maintenance for these systems and incur no additional costs.

Officials from the Family Support Division (FSD) Child Support indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 would increase the amount of some parents' gross income used for child support guideline calculations, resulting in a higher child support obligation amount on an unknown number of cases. Higher child support obligation amounts would likely result in both increased child support collections and increased past–due child support debt (arrearages). FSD is unable to quantify expected collection and arrearage increases.

Officials from the MO HealthNet Division indicated a total estimated net effect on all funds for fiscal year 2015 of ($23,983,243) and for fiscal year 2016 of ($49,837,178).

They provided the following comments:

FQHC (Federally Qualified Health Clinic) and RHC (Rural Health Clinic) are currently reimbursed based on a percentage of billed charge with cost settlements at a future date. These cost settlements could include an increase in approximately 3 to 4 years after an increase in minimum wage, however, the amount is unknown.

For Hospitals MO HealthNet bases reimbursement for a given year on the fourth prior year cost report trended forward. Since the first requirement is effective January 1, 2015, the increased cost would begin to be reflected in 2015 cost reports. MO HealthNet would

use 2015 cost reports to establish reimbursement for state fiscal year 2019. Therefore there would not be a fiscal impact to the MO HealthNet Division for fiscal years 2014, 2015, and 2016, but starting fiscal year 2019 there could be a cost, but the amount is unknown.

For Nursing Facilities no fiscal impact in 2014; $23,983,243 (GR $9,106,437) for 2015 (computed by taking projected Medicaid days times prior allowed per diem increase divided by 6 months since goes into effect January 1, 2015) and $49,837,178 (GR $18,923,176) for 2016. 3.9% trend used for 2016. Money must be allocated by legislature for rate increases. See long range implications.

OA will handle the fiscal impact for all state employee costs of raising the state minimum wage.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated no direct fiscal impact to their agency, but there is unknown impact on their cost of doing business.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated:

This proposed amendment raises the state's minimum wage to $8.50 per hour or the federal minimum wage rate, whichever is higher, beginning January 1, 2015.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US BLS, in 2011, Missouri had 109,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. According to OA's Division of Personnel, as of December 2012 there were 1,440 employees that would be impacted by increasing the minimum wage to $8.50 per hour. The estimated annual cost of increasing wages to $8.50 per hour is $809,058 ($96,902 GR) and $67,158 ($10,676 GR) in fringe benefits.

[1] http://www.bls.gov/cps/minwage2011tbls.htm#3

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **St. Louis County** indicated

In regard to Initiative Petition 14-016, St. Louis County estimates that an increase in the minimum wage to $8.50/hour would cost the County an additional $32,000 per year. The increase would only affect seasonal workers employed by the St. Louis County Department of Parks and Recreation.

ST. LOUIS COUNTY POSITIONS EARNING LESS THAN $8.50/HOUR

Position	Current Pay Rate	Difference w $8.50 minimum	3 Months per Season Employment	Additional Cost per Employee	# of Employees	Additional Cost
Day camp counselors	$7.25	$1.25	520	$650.00	30	$19,500.00
Ice rink guards	$7.25	$1.25	400	$500.00	25	$12,500.00
GRAND TOTAL ADDITIONAL COSTS						**$32,000.00**

Officials from the **City of Columbia** indicated the proposal if passed is expected to cost the City of Columbia $104,295/year, this amount does not include fringe benefits.

Officials from the **City of Jefferson** indicated if this petition would become law, it would cost the city approximately $117,208 per year.

Officials from the **City of Kirkwood** indicated for 14-014, 14-015, 14-016, and 14-017 their response is the same. While the dollar impact may change, the fiscal impact remains the same.

The estimate of the impact of this proposed change in the minimum wage is based on the premise that in order to remain competitive the city would increase across the board the hourly rates for all part time and seasonal personnel by the difference between the current minimum wage and the new proposed wage level. Based on the premise the costs would be as follows:

25,760 hours x $1.10 = $28,336 plus social security and Medicare adds another $2,170 = roughly $30,500. Add another $370 for those who qualify for pension benefits and the total comes to $30,870.

What this number does not take into consideration what potential increases we might have with contractual services providers such as Midwest Pool Management. If such providers find it necessary to increase their salaries in order to remain competitive, it could increase our costs. Based just on Midwest's current situation that could add upwards of $24,000 to our cost. It would take a considerable amount of time to try to determine what the impact throughout our operation would be in this regard.

It looks like the biggest impact on the city will be in the Recreation Department. Minimum wage hires are done mostly in Day Camp, Tennis, and Pool. There were approximately 28 minimum wage hires this summer in Recreation.

Other summer hires in Water, Parks & Streets usually hire above the minimum.

Officials from the **City of Wentzville** indicated:

This would be harmful to the City of Wentzville, meaning at least $19,000 in payroll costs for the part time employees, mostly kids, that the city hires to work each summer in Parks, plus the effect on those higher full time employees so that there is separation in our pay plan.

Officials from **Linn State Technical College** indicated these changes could have an estimated cost of $58,000 to Linn State Technical College.

Officials from **Metropolitan Community College** indicated an increase in the Missouri minimum wage to $8.50/hour would cost the Metropolitan Community College approximately $235,000.

Officials from **University of Missouri** indicated they are unable to determine the financial impact of the proposed amendment to the Revised Statutes of Missouri because they do not know which version of the petition would go to the voters, but believe this proposal would have significant financial liability for the University.

Lara Granich provided the following information as a proponent of this initiative petition.

December 20, 2012

Missouri State Auditor
Jefferson City, MO

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions
Version 5 (Increase to $8.40)
Version 6 (Increase to $8.45)
Version 7 (Increase to $8.50)
Version 8 (Increase to $9.25)

This letter is from Lara Granich and Missouri Jobs with Justice, proponents of the above-captioned initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the following four proposed Minimum Wage Initiative Petitions:

- Version 5, which would increase Missouri's minimum wage to $8.40 effective January 2015
- Version 6, which would increase Missouri's minimum wage to $8.45 effective January 2015
- Version 7, which would increase Missouri's minimum wage to $8.50 effective January 2015
- Version 8, which would increase Missouri's minimum wage to $9.25 effective January 2015

Our analysis estimates the impact of the four proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We have not included in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases. See Section IV – Additional Considerations.

We estimate that, under the four versions of the petition, state and local income and sales tax revenue will increase as follows:

Version	Minimum Wage Increase to	Increased State and Local Sales and Personal Income Tax Revenue
5	$8.40	$8,841,809
6	$8.45	$9,932,749
7	$8.50	$11,052,292
8	$9.25	$34,556,387

I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

To estimate the impact of the proposed minimum wage initiative petition on state and local government, the first thing that we have done is to determine how many employees state-wide will be affected, and how many millions of dollars in total wage increases they will receive. From these total increased wage figures one can then estimate the portion that will be spent on goods and services on which state sales tax is charged, generating increased sales tax revenue. And one similarly can estimate the portion of the increased wages that will be received by individuals who are subject to Missouri's income tax, resulting in increased income tax revenue.

The Economic Policy Institute (EPI) prepared and provided us with estimates of the number of workers affected and the total resulting wage increases for Versions 5, 6, 7 and 8. Our calculations are based on the EPI estimates.

We should note, however, that the above estimates of increased state and local sales and personal income tax revenue do not include additional state and local tax revenue that will be generated by tipped workers who will receive raises, many of whom are not captured in our wage increase analysis because their earnings are above the proposed value of the minimum wage and the likely range of related spillover effects, and who will receive a greater increase under the proposed measures than other employees. Additional state and local tax revenue is likely greater than we estimate once these tipped workers are factored in.

Below are the EPI estimates:

Effects of Missouri Minimum Wage Increases									
Proposed Minimum Wage Level 1/1/2015	Size of Increase	Total Estimated Workers[1]	Directly Affected[2]	Indirectly Affected[3]	Total Affected	Total Affected as % of Workers	Total Wage Increase[4]	GDP Impact[5]	Jobs Impact - Full-time Employment (job years)[6]
$8.40*	$0.80	2,585,000	169,000	141,000	310,000	12.0%	$ 135,290,000	$ 85,639,000	745
$8.45	$0.85	2,585,000	174,000	142,000	316,000	12.2%	$ 151,983,000	$ 96,205,000	840
$8.50	$0.90	2,585,000	175,000	151,000	326,000	12.6%	$ 169,113,000	$ 107,049,000	930
$9.25	$1.65	2,585,000	314,000	275,000	589,000	22.8%	$ 528,754,000	$ 334,701,000	2,900

Notes: *All scenarios model an increase in January 2015 above the legislated indexed increases for 2014 and 2015. The CBO projects inflation, as measured by the Consumer Price Index (CPI), to be 1.4% in 2013 and 1.8% in 2014. This would cause the MO state minimum wage to go from $7.35 to $7.45 in 2014, and from $7.45 to $7.60 in 2015. Thus, these four scenarios model increases above a minimum wage of $7.60 per hour.

Assumed annual population growth: 0.686% (MO projected average annual rate from 2010 to 2015, according to MO Office of Administration http://oa.mo.gov/bp/projections/data.htm)

Assumed annual wage growth: 2.3% (MO annual average of the bottom 20% of wage earners from 2002-2006 according to CPS ORG)

[1]Total estimated workers is estimated from the 2011 CPS respondents for whom either a valid hourly wage is reported or one can be imputed from weekly earnings and average weekly hours. Consequently, this estimate tends to understate the size of the full workforce.

[2]Directly Affected workers will see their wages rise as the new minimum wage rate will exceed their current hourly pay.

[3]Indirectly affected workers have a wage rate just above the new minimum wage (between the new minimum wage and the new minimum wage plus the dollar amount of the increase in the previous year's minimum wage). They will receive a raise as employer pay scales are adjusted upward to reflect the new minimum wage.

[4] Total annual amount of increased wages for directly and indirectly affected workers.

[5]GDP and job stimulus figures utilize a national model to estimate the GDP impact of workers' increased earnings. Thus the total state stimulus may be lower than this amount because workers in each state will not necessarily spend all of their increased earnings in-state. However, we can assume that most of the increased earnings will be spent in-state, and thus most of the jobs created will be in-state. Jobs numbers assume full-time employment requires $115,000 in additional GDP.

[6]The increased economic activity from these additional wages adds not just jobs but also hours for people who already have jobs (work hours for people with jobs also dropped in the downturn). Full-time employment takes that into account, by essentially taking the number of total hours added (including both hours from new jobs and more hours for people who already have jobs) and dividing by 40, to get full-time-equivalent jobs added.

Job impact estimation methods can be found in: Hall, Doug and Cooper, David. 2012. How raising the federal minimum wage would help working families and give the economy a boost. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/ib341-raising-federal-minimum-wage/ and Bivens, Josh L. 2011. Method memo on estimating the jobs impact of various policy changes. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/methodology-estimating-jobs-impact/

Source: EPI Analysis of 2011 Current Population Survey, Outgoing Rotation Group

II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that moderate increases in the minimum wage – such as those under consideration here – have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results.
(Source: Doucouliagos, Hristos and T. D. Stanley. 2009. "Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis." British Journal of Industrial Relations, vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find "...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase..." (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport.

(Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44,

no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to moderate increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed moderate increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local sales and personal income tax revenue in Missouri. We project both the direct impact of the four minimum wage increase scenarios on such tax revenue, and the additional impact through a GDP multiplier effect.

Component 1: Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages

Personal Income Tax Revenue. In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;

2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;

3. The remaining 25% would, we assumed, would pay no additional Missouri income tax.

In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

Sales Tax Revenue. The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

Component 1: Increases in Sales and Personal Income Tax Revenue from Increased Wages							
Version	Minimum Wage Increase to	Total Wage Increase	State Sales Tax (4.225%)	Local Sales Tax (2.95%)	Total Sales Tax Revenue Increase	Personal Income Tax Revenue Increase	Total Sales and Personal Income Tax Revenue Increase
5	$8.40	$135,290,000	$1,429,001	$997,764	$2,426,764	$3,700,182	**$6,126,946**
6	$8.45	$151,983,000	$1,605,320	$1,120,875	$2,726,195	$4,156,735	**$6,882,930**
7	$8.50	$169,113,000	$1,786,256	$1,247,208	$3,033,464	$4,625,241	**$7,658,705**
8	$9.25	$528,754,000	$5,584,964	$3,899,561	$9,484,525	$14,461,422	**$23,945,947**

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012
If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

Component 2: Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Multiplier Effect

The above calculations estimated the income and sales tax revenue likely to be generated by the direct wage increases resulting from each version of the proposed minimum wage increases. In addition to those direct wage increases, economists recognize that when a public policy change results in increased consumer spending, that spending has a multiplier effect that generates more economic activity, increasing the Gross Domestic Product (GDP). Such increases in GDP are generally understood to result in combination of new jobs or expanded hours for workers (as businesses bring on more staff to meet the increased consumer demand), and increased business income (as a portion of the increased spending is retained as company and owner profits).

EPI has developed a formula for estimating these GDP multiplier effects resulting minimum wage increases. See Hall, Doug and Cooper, David. 2012. How raising the federal minimum wage would help working families and give the economy a boost. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/ib341-raising-federal-minimum-wage/ ; and Bivens, Josh L. 2011. Methods memo on estimating the jobs impact of various policy changes. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/methodology-estimating-jobs-impact/.

Using this methodology, EPI has estimated the GDP increase that would result from each of the four versions of the minimum wage petition. *See* Table 1 above. We estimate that 70% of the increased GDP would be allocated to increased worker wages (through new hiring and expanded hours). That in turn results in new state sales tax and personal income tax revenue, following the same formula that we used above in Component 1.

Based upon these assumptions we estimate the following impacts from the multiplier effect on personal income tax, and state and local sales tax revenues:

Component 2: Increases in Sales and Income Tax Revenue from Multiplier Effect							
Version	**Minimum Wage Increase to**	**GDP Increase**	**Portion Allocated to Wages (70%)**	**State Sales Tax (4.225%) on 25% of Wages**	**Local Sales Tax (2.95%) on 25% of Wages**	**Personal Income Tax Revenue Increase**	**Total Tax Revenue Increase**
5	$8.40	$85,639,000	$59,947,300	$633,193	$442,111	$1,639,559	**$2,714,863**
6	$8.45	$96,205,000	$67,343,500	$711,316	$496,658	$1,841,845	**$3,049,819**
7	$8.50	$107,049,000	$74,934,300	$791,494	$552,640	$2,049,453	**$3,393,587**
8	$9.25	$334,701,000	$234,290,700	$2,474,696	$1,727,894	$6,407,851	**$10,610,440**

Some increased GDP would result in increased corporate incomes. We have not calculated corporate income tax revenues because only a small percentage of Missouri firms report taxable income of greater than $25,000. See http://eparc.missouri.edu/Publication/HistTax/Section04/moct01.pdf

IV. Additional Considerations

A difficult task is estimating the increased state and local government wage and benefit costs that would result from this petition. An accepted methodology is to contact the state and local governmental bodies directly and have them report their actual projected wage costs. This would be the cost of raising the wages of any minimum wage state or local employees up from the rate that will be in effect under current law as of January 2015, which is currently projected to be $7.60.

However, it is also possible to generate estimates of increased state and local government wage costs using government data. But because of the very small number of Missouri state and local government workers actually surveyed in the government data sets, such estimates may not accurately capture – and, in fact, may substantially overstate – the likely impact on state and local workforce costs of the proposed petitions. We suggest that your office carefully scrutinize any such estimates that may be submitted and qualify them with appropriate language.

With regard to the possibility of lost corporate income tax revenue, as noted, only a very small percentage of Missouri firms report taxable income of greater than $25,000. This suggests that any claims by opponents of substantial revenue losses are overstated.

* * *

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,

Lara Granich
Missouri Jobs with Justice

Edward D. Greim provided information as an opponent of this initiative petition.

He said he is submitting this fiscal impact statement as an opponent of Initiative Petitions 2014-14 through -17. These initiatives would have a substantial negative fiscal impact on state and local governments. In March 2012, Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases, prepared a detailed study regarding the impact of a minimum wage increase to $8.25 per hour. That study is attached here as Exhibit A. Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. Based on Dr. Macpherson's methodology, which was not seriously questioned even by his opposing expert in litigation earlier this year, the even higher increases proposed by Petitions 2014-14 through -17 would have even higher negative fiscal impacts.

Proponents of the petition may again rely on data from political activist groups who claim that increases in the minimum wage, no matter how great, simply create new taxable income. But as even the proponents' expert admitted in his testimony earlier this year, those groups approach the issue with a political bias. See Exhibit B. Further, that sort of analysis only examines one side of the equation—workers' collection of increased wages—without considering the other side of the equation—that Missouri businesses have to pay those wages, lowering their taxable income and, at times, causing them to forego hiring or to cut employment. In any analysis of secondary employment and tax revenue effects, the Auditor should refrain from reviewing only half of the wage-employment equation.

Additionally, as the Auditor recognized at trial last year, the most important and most direct effect of a minimum wage increase is the amount of increased wages that will actually be paid by state and local entities. At the same time, the Auditor is now aware that only a very few of the hundreds of state and local agencies and entities who actually employ minimum wage workers will provide fiscal impact estimates. A more direct—and far more accurate—method of calculating the direct fiscal impact of a wage increase is to use the actual number of minimum wage workers who work for state and local government as calculated by the U.S. Census Bureau's CPS. The Auditor should augment the purely anecdotal "fiscal note" responses of state and local entities with this more accurate, robust, and fair estimate.

He provided the following information.

FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

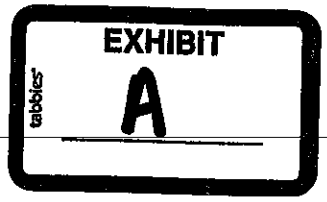
Prepared for

Victor Allred versus Robin Carnahan and Thomas Schweich
Circuit Court of Cole County, Missouri

Prepared by

David A. Macpherson, Ph.D.
125 Park Drive
San Antonio, TX 78212

March 26, 2012



FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

IV. Fiscal Impact

A. Overview

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

B. Direct Labor Cost Impact on State and Local Government Budgets

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

C. Unemployment Benefit Impact

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

D. Impact on State Income Tax Revenue

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where Tax_After_i is the income tax paid by worker i after the minimum wage increase. Tax_Before_i is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

E. Impact on State and Local Sales Tax Revenue

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

Appendix A

Resume and Testimony of David A. Macpherson, Ph.D.

DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

Teaching Areas

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

Books

Economics: Private and Public Choice, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition), Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006,* 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

Contemporary Labor Economics, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

Pensions and Productivity, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

Journal Publications (Economics)

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

Journal Publications (Real Estate and Insurance)

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

Publications in Books

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

Working Papers (Economics)

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

Working Papers (Real Estate and Insurance)

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

Funded Projects

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

Participation in National Meetings

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

Participation in Regional Meetings

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

Participation in Invited Seminars, Conferences, and other Presentations

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

Refereeing

Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics, Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

Honors and Awards

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

Who's Who in Economics, Fourth Edition, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

Service

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

Theses, Extended Papers, and Dissertations

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

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Q. Did you talk with Mr. Grant or Ms. Haggard in preparing for this deposition?
A. I had a conference call with both of them yesterday afternoon.
Q. And generally whenever you've wanted some information or a report or data, have you been able to receive it?
A. From them?
Q. From them.
A. I'm not sure what kind of data you're talking about.
Q. Well, let me just ask you have they given you everything you've asked for?
A. Yes.
Q. So it's fair for me to assume that if there's something you didn't look at, it's not because they didn't give it to you. It's because you didn't ask for it from them?
A. Yes.
Q. Okay. I want to mop up a couple of things on your qualifications. I don't see that you teach any classes on labor economics.
A. Correct.
Q. And you know, at one point opposing counsel told me that a labor economist was being

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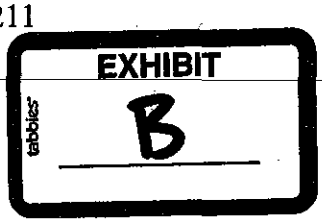
retained. I'm not sure if they were talking about you or if they didn't know who you were yet. Are you a labor economist?
A. I believe I am.
Q. What makes a labor economist?
A. Working in a variety of different labor-related issues over the past decade.
Q. Now before the last decade it looks like most of your work was with environmental and waste disposal issues; is that right?
A. Yeah, that's correct. That's what my dissertation was in.
Q. You've never given expert testimony on the minimum wage before, correct?
A. Correct.
Q. You've never had a publication in a peer reviewed journal?
A. No.
Q. Okay. And no publication, I guess, in a peer reviewed journal on the minimum wage?
A. No.
Q. Have you had any contact or interaction with NELK before you were retained in this matter?
A. No.
Q. With Jobs with Justice?

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A. No.
Q. Do you know who Jobs with Justice is?
A. Not really. I've heard of them, but I've never talked to them, or they have talked to me.
Q. How about the Economic Policy Institute? Any interaction with them before you were retained?
A. No.
Q. Do you know what the Economic Policy Institute is?
A. It's my understanding and general sense is that it publishes work on policy aspects across the wide spectrum of issues.
Q. Have you detected any political leanings in EPIs, for lack of -- so I don't have to say it over and over again -- in EPI's publications?
A. Could you repeat that?
Q. Sure. Have you detected any political leaning in EPI's publications?
A. Well, in terms of what small sample of stuff I've reviewed for them, they have a policy of leaning towards lower wage people, issues of income and equality and the like.
Q. Do you think it's important to consider political bias of sources that you rely upon?
A. Yeah, I believe it is.

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Q. How did you choose -- let's move to your index of materials.
(Whereupon, Deposition Exhibit Number 3 was marked by the reporter for identification.)
Q. (BY MR. GREIM) Okay. We've marked that as Exhibit 3. First of all, who prepared Exhibit 3?
MR. GRANT: What are you looking at, Eddie?
MR. GREIM: The articles relied upon by Dr. Kelsay.
MR. GRANT: Is that the index or --
MR. GREIM: It's Numbered 1 through 19, and the title is "Documents Relied Upon by Dr. Kelsay."
MR. GRANT: Okay.
Q. (BY MR. GREIM) Who prepared this document?
A. I did.
Q. When did you prepare it?
A. I'd have to look at my e-mails to determine that.
Well, I received a copy of an e-mail dated April 6th, and it said, "Could I, by early next week, send me an index," so I would guess it's a week or so later.



The State Auditor's office did not receive a response from the **Department of Health and Senior Services,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District,** and **St. Louis Community College**.

Fiscal Note Summary

Increased state and local government costs for wages, operating expenses, and programs could exceed an estimated $66 million annually. State and local government income and sales tax revenue could increase by an estimated $11.1 million annually.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-017)

Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received December 10, 2012)

Date

December 31, 2012

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Lara Granich provided information as a proponent of the proposal to the State Auditor's office.

Edward D. Greim provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated they are deferring to the Office of Administration - Division of Budget and Planning for the fiscal impact on the minimum wage provisions of this petition. There is no fiscal impact to their department from the other portions of the petition.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated they defer to the Office of Administration - Division of Budget and Planning.

Officials from the **Department of Higher Education** indicated they assume that in addition to direct personnel costs estimated by the Office of Administration for this request for state employees, the proposal would have an unknown negative fiscal impact on their department as its provisions would most likely result in an unknown cost increase for products and services purchased by their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration - Division of Budget and Planning for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration - Division of Budget and Planning.

Officials from the **Department of Natural Resources** indicated that per instructions from the Office of Administration, they defer to them for statewide response to this initiative petition.

Officials from the **Department of Corrections** indicated they have no impact for this initiative petition.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated employees of their department that would potentially be affected by this initiative petition would be our temporary Tax Season Employees.

An increase in minimum wage to $9.25 would be a $1.75 increase for all employees that receive the current minimum wage. A $1.75 increase would result in an increase on their departments' personal services budget (Taxation's temporary tax season) by approximately $72,400 per year.

Officials from the **Department of Social Services** provided the following division comments:

Officials from the Division of Youth Services (DYS) indicated a total estimated net effect on all funds for fiscal year 2015 of (unknown > $21,800/$43,600) and for fiscal year 2016 of (unknown > $43,600/$87,200).

They provided the following comments:

This petition would impact the Division of Youth Services in several ways. The division has a work experience program which youth are employed at minimum wage in various work activities. This legislation would decrease the number of youth who could participate in the program and/or the number of hours worked per youth.

The division has 32 residential facilities and 8 day treatment facilities. These facilities purchase a variety of goods and services. An increase in minimum wage would lead to an increased cost of goods and services. According to Econ Papers. RePEc. 06, November, 2012. http://econpapers.repec.org/paper/agsuersab/33598.htm, a bulletin from the United States Department of Agriculture, Economic Research Service, states for every $.50 increase in minimum wage, food prices would increase less than one percent from food stores and one percent at eating and drinking establishments if the total increase is passed on to consumers.

This could lead to an impact of approximately $43,600 yearly to the division if the minimum wage were set at $8.40, $8.45, or $8.50 (approximately a $1.00 increase over the existing rate of $7.35, effective 1/1/13). The fiscal impact would be approximately doubled ($87,200) if the minimum wage were to be set at $9.25 ($9.25 – $7.35 = $1.90 increase).

The division assumes there will be increased prices of other goods and services, however, is unable to calculate the increase.

Officials from the Division of Youth Services spent $2,179,988 for food related items in fiscal year 12. If the minimum wage increase lead to a 1% increase in cost per $.50 increase in minimum wage, the annual impact would be $43,600 at the $8.40, $8.45, and $8.50 levels and $87,200 at the $9.25 level.

It is assumed other product and service cost would increase; however, the amount is unknown, therefore the Division estimates an impact of unknown but greater than $43,600 for IP 14-014, IP 14-015, and IP 14-016 and $87,200 for IP 14-017.

If any of these initiative petitions were to pass, the new minimum wage rate would be effective January 1, 2015. Therefore, in FY 15 only half the estimated annual impact ($21,800 or $43,600) is shown on the accompanying spreadsheet.

DYS food expenses are paid from three funds: 8% from General Revenue; 58% from 0610 (federal funds) and 34% from 0620 (DSS educational improvement fund).

The Children's Division (CD) indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 may impact the Children's Division in two ways: Eligibility for the child care program, and costs charged by vendors who employ people paid minimum wage.

This section would increase the amount of gross income received by some participants of the Children's Division child care program. The CD is unable to determine how many participants may be affected by raising the state minimum wage to $9.25 per hour. However, since the child care program is income based, this may result in some participants who receive the higher state minimum wage to now exceed the income limits, which would result in loss of child care program benefits. Some participants who receive the higher state minimum wage may continue to be eligible for benefits, but at a reduced level.

Vendors may also be impacted. While some vendors with whom the Children's Division contracts may employ individuals who are paid minimum wage, CD would not automatically increase rates paid to those contractors as a result of this legislation. It could be expected; however, that at the times such contracts were re-bid, vendors would increase their pricing to cover such an increase.

The Children's Division does not expect to be immediately fiscally impacted by the changes proposed in this initiative petition.

Officials from the Family Support Division (FSD) indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 would increase the amount of gross income received by some participants of the Family Support Division's programs. The FSD is unable to determine how many participants may be affected by raising the state minimum wage to $9.25 per hour. However, since these programs are income based, this may result in some

participants who receive the higher state minimum wage to now exceed the income limits, which would result in loss of program benefits. Some participants who receive the higher state minimum wage may continue to be eligible for program benefits, but at a reduced level. These programs include, but are not limited to:

- Food Stamp benefits;
- Temporary Assistance;
- MO HealthNet coverage; and
- Low-Income Home Energy Assistance.

Officials from the Information Technology Services Division indicated a total estimated net effect on all funds for fiscal year 2015 of $0 and for fiscal year 2016 of $0.

They provided the following comments:

This Initiative Petition would require annual changes to the State Minimum Wage amounts for the Family Assistance Management Information System (FAMIS) and the Missouri Work Assistance (MWA) program.

The changes to the State Minimum Wage amounts are considered regular annual maintenance for these systems and incur no additional costs.

Officials from the Family Support Division (FSD) Child Support indicated a total estimated net effect on all funds for fiscal year 2015 of unknown and for fiscal year 2016 of unknown.

They provided the following comments:

Section 209.502 would increase the amount of some parents' gross income used for child support guideline calculations, resulting in a higher child support obligation amount on an unknown number of cases. Higher child support obligation amounts would likely result in both increased child support collections and increased past–due child support debt (arrearages). FSD is unable to quantify expected collection and arrearage increases.

Officials from the MO HealthNet Division indicated a total estimated net effect on all funds for fiscal year 2015 of ($43,033,762) and for fiscal year 2016 of ($89,424,157).

They provided the following comments:

FQHC (Federally Qualified Health Clinic) and RHC (Rural Health Clinic) are currently reimbursed based on a percentage of billed charge with cost settlements at a future date. These cost settlements could include an increase in approximately 3 to 4 years after an increase in minimum wage, however, the amount is unknown.

For Hospitals MO HealthNet bases reimbursement for a given year on the fourth prior year cost report trended forward. Since the first requirement is effective January 1, 2015, the increased cost would begin to be reflected in 2015 cost reports. MO HealthNet would

use 2015 cost reports to establish reimbursement for state fiscal year 2019. Therefore there would not be a fiscal impact to the MO HealthNet Division for fiscal years 2014, 2015, and 2016, but starting fiscal year 2019 there could be a cost, but the amount is unknown.

For Nursing Facilities no fiscal impact in 2014; $43,033,762 (GR $16,339,919) for 2015 (computed by taking projected Medicaid days times prior allowed per diem increase divided by 6 months since goes into effect January 1, 2015) and $89,424,157 (GR $33,954,353) for 2016. 3.9% trend used for 2016. Money must be allocated by legislature for rate increases. See long range implications.

OA will handle the fiscal impact for all state employee costs of raising the state minimum wage.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated no direct fiscal impact to their agency, but there is unknown impact on their cost of doing business.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated:

This proposed amendment raises the state's minimum wage to $9.25 per hour or the federal minimum wage rate, whichever is higher, beginning January 1, 2015.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US BLS, in 2011, Missouri had 109,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. According to OA's Division of Personnel, as of December 2012 there were 1,641 employees that would be impacted by increasing the minimum wage to $9.25 per hour. The estimated annual cost of increasing wages to $9.25 per hour is $1,591,661 ($141,580 GR) and $132,349 ($17,803 GR) in fringe benefits.

[1] http://www.bls.gov/cps/minwage2011tbls.htm#3

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **St. Louis County** indicated

In regard to Initiative Petition 14-017, St. Louis County estimates that an increase in the minimum wage to $9.25/hour would cost the County an additional $59,780 per year. The increase would only affect seasonal workers employed by the St. Louis County Department of Parks and Recreation.

ST. LOUIS COUNTY POSITIONS EARNING LESS THAN $9.25/HOUR

Position	Current Pay Rate	Difference w $9.25 minimum	3 Months per Season Employment	Additional Cost per Employee	# of Employees	Additional Cost
Lifeguards	$9.00	$0.25	520	$130.00	30	$3,900.00
Day camp counselors	$7.25	$2.00	520	$1,040.00	30	$31,200.00
Cashiers	$8.65	$0.60	520	$312.00	7	$2,184.00
Ice rink guards*	$7.25	$2.00	400	$800.00	25	$20,000.00
Total for Seasonal Employees						**$57,284.00**
Total for Two Full-Time Cashiers		$0.60	2080	$1,248.00	2	**$2,496.00**
GRAND TOTAL ADDITIONAL COSTS						**$59,780.00**

** Ice rink guard expenses are calculated separately at 20 hours per week for five months*

Officials from the **City of Columbia** indicated the proposal if passed is expected to cost the City of Columbia $172,303/year, this amount does not include fringe benefits.

Officials from the **City of Jefferson** indicated if this petition would become law, it would cost the city approximately $214,468 per year.

Officials from the **City of Kirkwood** indicated for 14-014, 14-015, 14-016, and 14-017 their response is the same. While the dollar impact may change, the fiscal impact remains the same.

The estimate of the impact of this proposed change in the minimum wage is based on the premise that in order to remain competitive the city would increase across the board the hourly rates for all part time and seasonal personnel by the difference between the current minimum wage and the new proposed wage level. Based on the premise the costs would be as follows:

25,760 hours x $1.10 = $28,336 plus social security and Medicare adds another $2,170 = roughly $30,500. Add another $370 for those who qualify for pension benefits and the total comes to $30,870.

What this number does not take into consideration what potential increases we might have with contractual services providers such as Midwest Pool Management. If such providers find it necessary to increase their salaries in order to remain competitive, it could increase our costs. Based just on Midwest's current situation that could add upwards of $24,000 to our cost. It would take a considerable amount of time to try to determine what the impact throughout our operation would be in this regard.

It looks like the biggest impact on the city will be in the Recreation Department. Minimum wage hires are done mostly in Day Camp, Tennis, and Pool. There were approximately 28 minimum wage hires this summer in Recreation.

Other summer hires in Water, Parks & Streets usually hire above the minimum.

Officials from the **City of Wentzville** indicated:

This would be harmful to the City of Wentzville, meaning at least $35,000 in payroll costs for the part time employees, mostly kids, that the city hires to work each summer in Parks, plus the effect on those higher full time employees so that there is separation in our pay plan.

Officials from **Linn State Technical College** indicated these changes could have an estimated cost of $85,000 to Linn State Technical College.

Officials from **Metropolitan Community College** indicated an increase in the Missouri minimum wage to $9.25/hour would cost the Metropolitan Community College approximately $375,000.

Officials from **University of Missouri** indicated they are unable to determine the financial impact of the proposed amendment to the Revised Statutes of Missouri because they do not know which version of the petition would go to the voters, but believe this proposal would have significant financial liability for the University.

Lara Granich provided the following information as a proponent of this initiative petition.

December 20, 2012

Missouri State Auditor
Jefferson City, MO

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions
Version 5 (Increase to $8.40)
Version 6 (Increase to $8.45)
Version 7 (Increase to $8.50)
Version 8 (Increase to $9.25)

This letter is from Lara Granich and Missouri Jobs with Justice, proponents of the above-captioned initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the following four proposed Minimum Wage Initiative Petitions:

- Version 5, which would increase Missouri's minimum wage to $8.40 effective January 2015
- Version 6, which would increase Missouri's minimum wage to $8.45 effective January 2015
- Version 7, which would increase Missouri's minimum wage to $8.50 effective January 2015
- Version 8, which would increase Missouri's minimum wage to $9.25 effective January 2015

Our analysis estimates the impact of the four proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We have not included in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases. See Section IV – Additional Considerations.

We estimate that, under the four versions of the petition, state and local income and sales tax revenue will increase as follows:

Version	Minimum Wage Increase to	Increased State and Local Sales and Personal Income Tax Revenue
5	$8.40	$8,841,809
6	$8.45	$9,932,749
7	$8.50	$11,052,292
8	$9.25	$34,556,387

I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

To estimate the impact of the proposed minimum wage initiative petition on state and local government, the first thing that we have done is to determine how many employees state-wide will be affected, and how many millions of dollars in total wage increases they will receive. From these total increased wage figures one can then estimate the portion that will be spent on goods and services on which state sales tax is charged, generating increased sales tax revenue. And one similarly can estimate the portion of the increased wages that will be received by individuals who are subject to Missouri's income tax, resulting in increased income tax revenue.

The Economic Policy Institute (EPI) prepared and provided us with estimates of the number of workers affected and the total resulting wage increases for Versions 5, 6, 7 and 8. Our calculations are based on the EPI estimates.

We should note, however, that the above estimates of increased state and local sales and personal income tax revenue do not include additional state and local tax revenue that will be generated by tipped workers who will receive raises, many of whom are not captured in our wage increase analysis because their earnings are above the proposed value of the minimum wage and the likely range of related spillover effects, and who will receive a greater increase under the proposed measures than other employees. Additional state and local tax revenue is likely greater than we estimate once these tipped workers are factored in.

Below are the EPI estimates:

Effects of Missouri Minimum Wage Increases									
Proposed Minimum Wage Level 1/1/2015	Size of Increase	Total Estimated Workers[1]	Directly Affected[2]	Indirectly Affected[3]	Total Affected	Total Affected as % of Workers	Total Wage Increase[4]	GDP Impact[5]	Jobs Impact - Full-time Employment (job years)[6]
$8.40*	$0.80	2,585,000	169,000	141,000	310,000	12.0%	$ 135,290,000	$ 85,639,000	745
$8.45	$0.85	2,585,000	174,000	142,000	316,000	12.2%	$ 151,983,000	$ 96,205,000	840
$8.50	$0.90	2,585,000	175,000	151,000	326,000	12.6%	$ 169,113,000	$ 107,049,000	930
$9.25	$1.65	2,585,000	314,000	275,000	589,000	22.8%	$ 528,754,000	$ 334,701,000	2,900

Notes: *All scenarios model an increase in January 2015 above the legislated indexed increases for 2014 and 2015. The CBO projects inflation, as measured by the Consumer Price Index (CPI), to be 1.4% in 2013 and 1.8% in 2014. This would cause the MO state minimum wage to go from $7.35 to $7.45 in 2014, and from $7.45 to $7.60 in 2015. Thus, these four scenarios model increases above a minimum wage of $7.60 per hour.

Assumed annual population growth: 0.686% (MO projected average annual rate from 2010 to 2015, according to MO Office of Administration http://oa.mo.gov/bp/projections/data.htm)

Assumed annual wage growth: 2.3% (MO annual average of the bottom 20% of wage earners from 2002-2006 according to CPS ORG)

[1]Total estimated workers is estimated from the 2011 CPS respondents for whom either a valid hourly wage is reported or one can be imputed from weekly earnings and average weekly hours. Consequently, this estimate tends to understate the size of the full workforce.

[2]Directly Affected workers will see their wages rise as the new minimum wage rate will exceed their current hourly pay.

[3]Indirectly affected workers have a wage rate just above the new minimum wage (between the new minimum wage and the new minimum wage plus the dollar amount of the increase in the previous year's minimum wage). They will receive a raise as employer pay scales are adjusted upward to reflect the new minimum wage.

[4] Total annual amount of increased wages for directly and indirectly affected workers.

[5]GDP and job stimulus figures utilize a national model to estimate the GDP impact of workers' increased earnings. Thus the total state stimulus may be lower than this amount because workers in each state will not necessarily spend all of their increased earnings in-state. However, we can assume that most of the increased earnings will be spent in-state, and thus most of the jobs created will be in-state. Jobs numbers assume full-time employment requires $115,000 in additional GDP.

[6]The increased economic activity from these additional wages adds not just jobs but also hours for people who already have jobs (work hours for people with jobs also dropped in the downturn). Full-time employment takes that into account, by essentially taking the number of total hours added (including both hours from new jobs and more hours for people who already have jobs) and dividing by 40, to get full-time-equivalent jobs added.

Job impact estimation methods can be found in: Hall, Doug and Cooper, David. 2012. How raising the federal minimum wage would help working families and give the economy a boost. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/ib341-raising-federal-minimum-wage/ and Bivens, Josh L. 2011. Method memo on estimating the jobs impact of various policy changes. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/methodology-estimating-jobs-impact/

Source: EPI Analysis of 2011 Current Population Survey, Outgoing Rotation Group

II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that moderate increases in the minimum wage – such as those under consideration here – have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results.
(Source: Doucouliagos, Hristos and T. D. Stanley. 2009. "Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis." British Journal of Industrial Relations, vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find "...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase..." (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport.

(Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44,

no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to moderate increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed moderate increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local sales and personal income tax revenue in Missouri. We project both the direct impact of the four minimum wage increase scenarios on such tax revenue, and the additional impact through a GDP multiplier effect.

Component 1: Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages

Personal Income Tax Revenue. In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;

2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;

3. The remaining 25% would, we assumed, would pay no additional Missouri income tax.

In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

Sales Tax Revenue. The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

Component 1: Increases in Sales and Personal Income Tax Revenue from Increased Wages							
Version	Minimum Wage Increase to	Total Wage Increase	State Sales Tax (4.225%)	Local Sales Tax (2.95%)	Total Sales Tax Revenue Increase	Personal Income Tax Revenue Increase	Total Sales and Personal Income Tax Revenue Increase
5	$8.40	$135,290,000	$1,429,001	$997,764	$2,426,764	$3,700,182	**$6,126,946**
6	$8.45	$151,983,000	$1,605,320	$1,120,875	$2,726,195	$4,156,735	**$6,882,930**
7	$8.50	$169,113,000	$1,786,256	$1,247,208	$3,033,464	$4,625,241	**$7,658,705**
8	$9.25	$528,754,000	$5,584,964	$3,899,561	$9,484,525	$14,461,422	**$23,945,947**

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012
If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

Component 2: Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Multiplier Effect

The above calculations estimated the income and sales tax revenue likely to be generated by the direct wage increases resulting from each version of the proposed minimum wage increases. In addition to those direct wage increases, economists recognize that when a public policy change results in increased consumer spending, that spending has a multiplier effect that generates more economic activity, increasing the Gross Domestic Product (GDP). Such increases in GDP are generally understood to result in combination of new jobs or expanded hours for workers (as businesses bring on more staff to meet the increased consumer demand), and increased business income (as a portion of the increased spending is retained as company and owner profits).

EPI has developed a formula for estimating these GDP multiplier effects resulting minimum wage increases. See Hall, Doug and Cooper, David. 2012. How raising the federal minimum wage would help working families and give the economy a boost. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/ib341-raising-federal-minimum-wage/ ; and Bivens, Josh L. 2011. Methods memo on estimating the jobs impact of various policy changes. Washington, D.C.: Economic Policy Institute. http://www.epi.org/publication/methodology-estimating-jobs-impact/.

Using this methodology, EPI has estimated the GDP increase that would result from each of the four versions of the minimum wage petition. *See* Table 1 above. We estimate that 70% of the increased GDP would be allocated to increased worker wages (through new hiring and expanded hours). That in turn results in new state sales tax and personal income tax revenue, following the same formula that we used above in Component 1.

Based upon these assumptions we estimate the following impacts from the multiplier effect on personal income tax, and state and local sales tax revenues:

Component 2: Increases in Sales and Income Tax Revenue from Multiplier Effect							
Version	**Minimum Wage Increase to**	**GDP Increase**	**Portion Allocated to Wages (70%)**	**State Sales Tax (4.225%) on 25% of Wages**	**Local Sales Tax (2.95%) on 25% of Wages**	**Personal Income Tax Revenue Increase**	**Total Tax Revenue Increase**
5	$8.40	$85,639,000	$59,947,300	$633,193	$442,111	$1,639,559	**$2,714,863**
6	$8.45	$96,205,000	$67,343,500	$711,316	$496,658	$1,841,845	**$3,049,819**
7	$8.50	$107,049,000	$74,934,300	$791,494	$552,640	$2,049,453	**$3,393,587**
8	$9.25	$334,701,000	$234,290,700	$2,474,696	$1,727,894	$6,407,851	**$10,610,440**

Some increased GDP would result in increased corporate incomes. We have not calculated corporate income tax revenues because only a small percentage of Missouri firms report taxable income of greater than $25,000. See http://eparc.missouri.edu/Publication/HistTax/Section04/moct01.pdf

IV. Additional Considerations

A difficult task is estimating the increased state and local government wage and benefit costs that would result from this petition. An accepted methodology is to contact the state and local governmental bodies directly and have them report their actual projected wage costs. This would be the cost of raising the wages of any minimum wage state or local employees up from the rate that will be in effect under current law as of January 2015, which is currently projected to be $7.60.

However, it is also possible to generate estimates of increased state and local government wage costs using government data. But because of the very small number of Missouri state and local government workers actually surveyed in the government data sets, such estimates may not accurately capture – and, in fact, may substantially overstate – the likely impact on state and local workforce costs of the proposed petitions. We suggest that your office carefully scrutinize any such estimates that may be submitted and qualify them with appropriate language.

With regard to the possibility of lost corporate income tax revenue, as noted, only a very small percentage of Missouri firms report taxable income of greater than $25,000. This suggests that any claims by opponents of substantial revenue losses are overstated.

* * *

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,

Lara Granich
Missouri Jobs with Justice

Edward D. Greim provided information as an opponent of this initiative petition.

He said he is submitting this fiscal impact statement as an opponent of Initiative Petitions 2014-14 through -17. These initiatives would have a substantial negative fiscal impact on state and local governments. In March 2012, Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases, prepared a detailed study regarding the impact of a minimum wage increase to $8.25 per hour. That study is attached here as Exhibit A. Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. Based on Dr. Macpherson's methodology, which was not seriously questioned even by his opposing expert in litigation earlier this year, the even higher increases proposed by Petitions 2014-14 through -17 would have even higher negative fiscal impacts.

Proponents of the petition may again rely on data from political activist groups who claim that increases in the minimum wage, no matter how great, simply create new taxable income. But as even the proponents' expert admitted in his testimony earlier this year, those groups approach the issue with a political bias. See Exhibit B. Further, that sort of analysis only examines one side of the equation—workers' collection of increased wages—without considering the other side of the equation—that Missouri businesses have to pay those wages, lowering their taxable income and, at times, causing them to forego hiring or to cut employment. In any analysis of secondary employment and tax revenue effects, the Auditor should refrain from reviewing only half of the wage-employment equation.

Additionally, as the Auditor recognized at trial last year, the most important and most direct effect of a minimum wage increase is the amount of increased wages that will actually be paid by state and local entities. At the same time, the Auditor is now aware that only a very few of the hundreds of state and local agencies and entities who actually employ minimum wage workers will provide fiscal impact estimates. A more direct—and far more accurate—method of calculating the direct fiscal impact of a wage increase is to use the actual number of minimum wage workers who work for state and local government as calculated by the U.S. Census Bureau's CPS. The Auditor should augment the purely anecdotal "fiscal note" responses of state and local entities with this more accurate, robust, and fair estimate.

He provided the following information.

FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

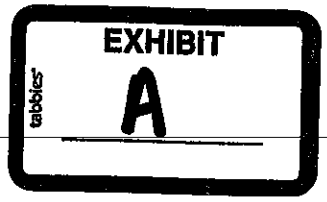
Prepared for

Victor Allred versus Robin Carnahan and Thomas Schweich
Circuit Court of Cole County, Missouri

Prepared by

David A. Macpherson, Ph.D.
125 Park Drive
San Antonio, TX 78212

March 26, 2012



FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

IV. Fiscal Impact

A. Overview

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

B. Direct Labor Cost Impact on State and Local Government Budgets

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

C. Unemployment Benefit Impact

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

D. Impact on State Income Tax Revenue

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where Tax_After_i is the income tax paid by worker i after the minimum wage increase. Tax_Before_i is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

E. Impact on State and Local Sales Tax Revenue

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

FISCAL ANALYSIS
OF
PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

Appendix A

Resume and Testimony of David A. Macpherson, Ph.D.

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3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

Teaching Areas

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

Books

Economics: Private and Public Choice, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition), Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

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Journal Publications (Economics)

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

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"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

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"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

Working Papers (Economics)

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

Working Papers (Real Estate and Insurance)

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

Funded Projects

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

Participation in National Meetings

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

Participation in Regional Meetings

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

Participation in Invited Seminars, Conferences, and other Presentations

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

Refereeing

Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics, Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

Honors and Awards

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

Who's Who in Economics, Fourth Edition, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

Service

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

Theses, Extended Papers, and Dissertations

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

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Q. Did you talk with Mr. Grant or Ms. Haggard in preparing for this deposition?
A. I had a conference call with both of them yesterday afternoon.
Q. And generally whenever you've wanted some information or a report or data, have you been able to receive it?
A. From them?
Q. From them.
A. I'm not sure what kind of data you're talking about.
Q. Well, let me just ask you have they given you everything you've asked for?
A. Yes.
Q. So it's fair for me to assume that if there's something you didn't look at, it's not because they didn't give it to you. It's because you didn't ask for it from them?
A. Yes.
Q. Okay. I want to mop up a couple of things on your qualifications. I don't see that you teach any classes on labor economics.
A. Correct.
Q. And you know, at one point opposing counsel told me that a labor economist was being

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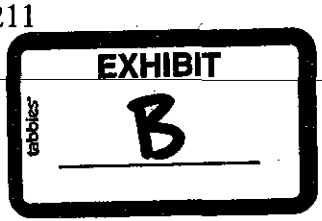
retained. I'm not sure if they were talking about you or if they didn't know who you were yet. Are you a labor economist?
A. I believe I am.
Q. What makes a labor economist?
A. Working in a variety of different labor-related issues over the past decade.
Q. Now before the last decade it looks like most of your work was with environmental and waste disposal issues; is that right?
A. Yeah, that's correct. That's what my dissertation was in.
Q. You've never given expert testimony on the minimum wage before, correct?
A. Correct.
Q. You've never had a publication in a peer reviewed journal?
A. No.
Q. Okay. And no publication, I guess, in a peer reviewed journal on the minimum wage?
A. No.
Q. Have you had any contact or interaction with NELK before you were retained in this matter?
A. No.
Q. With Jobs with Justice?

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A. No.
Q. Do you know who Jobs with Justice is?
A. Not really. I've heard of them, but I've never talked to them, or they have talked to me.
Q. How about the Economic Policy Institute? Any interaction with them before you were retained?
A. No.
Q. Do you know what the Economic Policy Institute is?
A. It's my understanding and general sense is that it publishes work on policy aspects across the wide spectrum of issues.
Q. Have you detected any political leanings in EPIs, for lack of -- so I don't have to say it over and over again -- in EPI's publications?
A. Could you repeat that?
Q. Sure. Have you detected any political leaning in EPI's publications?
A. Well, in terms of what small sample of stuff I've reviewed for them, they have a policy of leaning towards lower wage people, issues of income and equality and the like.
Q. Do you think it's important to consider political bias of sources that you rely upon?
A. Yeah, I believe it is.

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Q. How did you choose -- let's move to your index of materials.
(Whereupon, Deposition Exhibit Number 3 was marked by the reporter for identification.)
Q. (BY MR. GREIM) Okay. We've marked that as Exhibit 3. First of all, who prepared Exhibit 3?
MR. GRANT: What are you looking at, Eddie?
MR. GREIM: The articles relied upon by Dr. Kelsay.
MR. GRANT: Is that the index or --
MR. GREIM: It's Numbered 1 through 19, and the title is "Documents Relied Upon by Dr. Kelsay."
MR. GRANT: Okay.
Q. (BY MR. GREIM) Who prepared this document?
A. I did.
Q. When did you prepare it?
A. I'd have to look at my e-mails to determine that.
Well, I received a copy of an e-mail dated April 6th, and it said, "Could I, by early next week, send me an index," so I would guess it's a week or so later.



The State Auditor's office did not receive a response from the **Department of Health and Senior Services,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District,** and **St. Louis Community College**.

Fiscal Note Summary

Increased state and local government costs for wages, operating expenses, and programs could exceed an estimated $105 million annually. State and local government income and sales tax revenue could increase by an estimated $34.6 million annually.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-018)

Subject

Initiative petition from Maureen Dickmann regarding a proposed amendment to Chapters 367 and 408 of the Revised Statutes of Missouri. (Received December 10, 2012)

Date

December 31, 2012

Description

This proposal would amend Chapters 367 and 408 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Dale K. Irwin provided information as a proponent of the proposal to the State Auditor's office.

Erich V. Vieth provided information as a proponent of the proposal to the State Auditor's office.

Marc H. Ellinger on behalf of Stand Up Missouri provided information as an opponent of the proposal to the State Auditor's office.

Edward D. Greim provided information from **Dr. Joseph H. Haslag** who identified himself as an opponent of the proposal to the State Auditor's office.

Robert Zeitler provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources. They may seek additional appropriations if there is a significant increase in the number of referrals from the Division of Finance.

Officials from the **Department of Agriculture** indicated there will be no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they would have no impact.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated they do not anticipate that the proposal contained in this initiative petition would have any direct, foreseeable fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they anticipate it will have no cost or savings to their department. If the adoption of the measure results in a reduction of fee revenue from consumer credit entities, their department anticipates it would expend a correspondingly smaller amount to regulate these entities.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated their department has no impact for this initiative petition.

Officials from the **Department of Labor and Industrial Relations** indicated there would be no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no added costs to their office if the amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there is no direct fiscal impact to their agency, but there is an unknown impact on their cost of doing business.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact for this initiative petition.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from **St. Louis County** indicated in regards to this initiative petition, they do not anticipate any significant financial impact to their county. Although the proposed language could create a slight negative financial impact in terms of a reduction in business licenses if there was a drop in the number of payday loan businesses, or a small drop in assessed values if some payday loan operations go out of business, it is not possible to calculate the number of payday loan businesses that would be terminated. In either case, a reduction in the number of payday loan businesses would not cause significant impact to their county.

Officials from the **City of Columbia** indicated they have licensed 17 loan companies. If the legislative change causes them to stop operating there, the city would lose about $56 in licensing fees. They indicated this is not a significant fiscal impact.

Officials from the **City of Jefferson** indicated they expect no fiscal impact if this petition would become law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Wentzville** indicated they do not see that this would have any fiscal impact on their city.

Officials from **Linn State Technical College** indicated these changes should not have an estimated cost or savings to their college.

Officials from **Metropolitan Community College** indicated this would have no direct fiscal impact on their college.

Dale K. Irwin provided the following information as a proponent of this initiative petition.

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December 18, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, Missouri 65101

Re: Petition approval request from Maureen Dickman regarding a proposed amendment to the Revised Statutes of Missouri, version 2 (2014-018)

Dear Auditor Schweich:

I write to ask your consideration of the following as you draft your fiscal note summary for the above proposed measure.

I have practiced consumer protection law since 1973 when I graduated from M.U. law school in Columbia and came to Kansas City to work for Legal Aid of Western Missouri. After leaving Legal Aid in 1981, I continued to concentrate my private practice in the same area. Having repeatedly witnessed throughout my career the devastating impact of payday loans, I am a strong proponent of reducing the rates on the high-cost forms of consumer credit covered by the above initiative.

In the late 1970s at Legal Aid, we handled a class action against some Oklahoma payday lenders with storefront operations here in Kansas City. That was my first glimpse into how borrowers become hopelessly trapped in a repeat cycle of 400% loans. While back then Missouri still had an usury law with teeth, it was being circumvented by a ruse. The payday lenders claimed that the 400% APR was not "interest," but was instead a "brokerage fee" they were charging to connect the borrower to a lender. This was, of course, an elaborate lie. The lender was always the same guy – some shadowy figure in El Paso, Texas.

After reaching a successful settlement for the class of borrowers in that case, we worked with a state legislator to plug the "brokerage fee" loophole. After her bill was passed and signed into law (§ 408.096 RSMo), the payday lenders mustered a constitutional challenge to the statute. The Missouri Supreme Court upheld it in *Lincoln Credit Co. v. Peach*, 636 S.W.2d 31 (Mo. 1982).

So then payday lenders turned their attention to the legislature. They pushed through a bill legalizing their super-usurious rates when Kit Bond was governor. To his everlasting credit, he vetoed it.

Undaunted, the payday lenders threw more money at the legislature and got another bill through. Our veto pleas to Gov. Bond's successor fell on deaf ears and he signed the measure into law.

Then, in 1998, the Small Loan Act, which capped the allowable interest on loans of $500 or less at 26.62%, was amended to remove the cap, leaving the sky as the only limit on such loans. Ever since, any attempt at payday loan reform has been met with nothing but resistance in the legislature.

Missouri borrowers have been subjected to some of the highest-cost loans in the nation. Not only have I been representing Missourians harmed by these abusive practices for more than 35 years, but I also recently represented two proponents of payday loan reform who sought to get the matter on the November ballot this year. So I am familiar with the way these loans strip income from individuals and also familiar with the flawed arguments the high-cost lending industry made in the litigation over the fiscal note.

Assuming that these high-cost lenders will make similar arguments regarding the fiscal note you are preparing for the current proposal, I would like to provide important background on the drain caused by these high-cost credit products and address the flawed arguments typically made about their fiscal impact. Understanding the nature of these predatory loan products is key to understanding the overblown industry statements about the fiscal impact of the initiative. By their nature, that the vast majority of loans covered by the initiative petition are structured to trap borrowers in a long term cycle of debt, resulting in payment of excessive finance charges and long-lasting financial consequences.

For the reasons presented here, and because of the experiences of what has occurred in other states, I argue that reducing the interest rate on these loans, as the initiative proposes, will in fact have a neutral or net positive fiscal impact on the state of Missouri. At the very least, the ranges provided in the fiscal note summary last year will be sufficient this time as well.

Predatory Nature of High-cost Loan Products Covered by Initiative Petition

Loans covered by this initiative petition – payday loans, car title loans, installment loans – carry charges in Missouri well above triple-digit annual percentage rates (APR),

often 400% or more. These rates reflect the risky structure of these loan products, the terms of which make them difficult to repay without having to borrow again and again. Industry and state regulator data reflect time and time again that the loans create a pattern of long-term repeat borrowing, essentially churning borrowers simply for the collection of new finance charges with little or no benefit to the borrower.

Below are three examples of this in each of these types of loans – payday, car title and installment. The examples are followed by cumulative data to show this is the industry norm, not an exception.

In a recent case before the Missouri Supreme Court, *Brewer v. Missouri Title Loans*, 364 S.W.3d 486 (Mo. 2012), Ms. Brewer borrowed $2,215.00 at an APR of 300%. The was secured by a lien on her car title. After making two payments totaling over $1,000, the loan principal was reduced by only 6 cents.

In a recently-settled class action involving the state's largest payday lender, Kansas-based QC Holdings, a single mother of two making $844.00 every two weeks as a medical assistant, took out three payday loans from QC Holdings, one for $450, one for $300 and one for $250. QC Holdings renewed these loans six times, charging a total of more than $1,800.00 in finance charges.[1]

Finally, in a recent news story about one of the state's largest installment lenders, also known as a "510 Lender", highlights similar patterns. The story focuses on the battle of a social services agency in Kansas City to help one of its clients. The client, a single mother, whose sole source of income is disability and who reads at the third grade level, borrowed $300 at 382% APR for which the final total payments amounted to $1,080.00.[2]

These stories are not exceptions, but rather the norm. These stories match the experiences of consumers I have represented. Data shows that nationally the typical payday loan borrower is stuck in 8 payday loans a year and pays over $520 in interest for a typical $375 loan.[3] Data also show that 76% of payday loan volume is due to borrower

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[1] Dan Margolies, Kansas City Star, November 10, 2006, "Payday Lender QC Financial Services Faces Class Action Lawsuit".

[2] KCTV 5 "Cash – No Questions Asked" (July 20, 2011).

[3] Pew Charitable Trust, "Payday Lending in America; Who Borrowers, Where They Borrow and Why," July 2012.

churn, i.e., borrowers who take out a new payday loan within two weeks of the previous one.[4] Thus, payday loans are not repeated infusion of new capital in the economy, but rather mechanisms by which to repeatedly flip consumers, stripping finance charges over and over again.

The same patterns exist for car title loans. Data shows the typical car title borrower is refinanced eight times on a single loan.[5] In the previous example of Ms. Brewer, above, carrying that example out to reflect the typical borrower experience, she would have paid $500.00 eight times over, for a total of $4,000 in finance charges, in addition to the original principal of $2,215, for a total payback amount of over $6,200.00.

Again, it is the same story for the installment loan industry. Industry and state regulator data from other states show that more than 75% of loan volume is due to refinancing existing borrowers.[6] All of this is to say that the massive drain of money from Missourians paid in excessive finance charges to these primarily out-of-state companies harms not only individual consumers, but diverts that capital form otherwise being spent in Missouri.

Missouri loses an estimated $317 million annually due to excessive payday loan charges.[7] This total of money drained would be even higher once car title and installment loan charges are included. States that do not allow 400% payday loan interest rates collectively save their citizens nearly $2 billion a year.[8]

In regard to the harm caused by these products, which will be mitigated by the initiative proposal, there are longer term financial consequences in addition to the

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[4] Center for Responsible Lending, "Phantom Demand," July 9, 2009.

[5] Affidavit of John Robinson, President of Titlemax Holdings, LLC, U..S. Bankruptcy Court, Southern District of Georgia, Savannah Division, Case No. 09-40805 (April 21, 2009).

[6] N.C. Commissioner of Banks, 2010 Consumer Finance Annual Report. See also, SEC filings of World Acceptance Corp., a South Carolina-based installment lender, reporting that over 75% of its lending is refinancing existing loans: "For fiscal 2010, 2009 and 2008, the percentages of the Company's loan originations that were refinancings of existing loans were 76.4%, 75.0% and 73.3%, respectively." World Acceptance 2010 10-K, p. 6. World Acceptance is a licensed 510 lender in Missouri.

[7] Center for Responsible Lending, "Financial Quicksand" November 20, 2006.

[8] Center for Responsible Lending, "A 36% APR Cap on High-cost Loans Promotes Financial Recovery," (January 2009). See http://www.responsiblelending.org/payday-lending/policy-legislation/congress/payday-and-the-economy.pdf

immediate loss of fees paid on these loans. For example, research shows that payday loans result in higher bankruptcy rates, increased delinquency on credit card bills and involuntary bank account closures.[9] In addition, companies that make these high-cost loans pursue aggressive debt collection tactic, both in an outside of the courts. Many times, these debt collection tactics disturb people at work, thus interfering with productivity. Debt collectors seeking judgments on these loans clog the court system. Once the proposal mitigates these harms of these abusive products, Missourians, employers and courts will no longer be burdened with this lasting and spillover consequences.

Addressing Fiscal Impact Claims of High-cost Lenders

Opponents generally fail to acknowledge the negative of their products in their analysis. In many instances, where high-cost lenders try to justify their existence, they look at only one side of the equation. They fail to examine the cost of the negative consequences, such as those described above, as well as fail to account for the facts that millions of dollars paid in excessive charges would still exist and otherwise circulate in the economy.

For example, last year, in opponents' estimations of the loss of GDP and tax base, they assumed the money spent on triple-digit APR payday loans, would simply vanish from Missouri's economy, rather than being spent on other goods and services that would contribute to the GDP and tax base. Furthermore, opponents' analysis failed to account for the wealth drained from the state in the form of fees repeatedly paid to these lenders that never went to pay down the loan principal. As stated earlier, a 2006 analysis by the Center for Responsible Lending found Missouri loses over $317 million annually to predatory payday loans.[10]

Even this $317 fee drain is a conservative estimate, in that is does not take into account fees lost to other high-cost lenders, such as title lenders and installment lenders that charge triple-digit rates and rely on long-term repeat financing. Not only does this money leave the pockets of Missourians, it largely leaves the state, as the majority of

[9] Paige Skiva (Vanderbilt) and Jeremy Tobacman (U.Penn.), "Do Payday Loans Cause Bankruptcy?" November 9, 2009; Brian P. Melzer (Northwestern), "The Real Cost of Credit Access: Evidence from the Payday Lending Market", November 15, 2007; Dennis Campbell, Asis Martinez-Jerez and Peter Tufano (Harvard), "Bouncing Out of the Banking System: An Empirical Analysis of Involuntary Bank Account Closures", June 6, 2008.

[10] See footnote 7, *supra.*

these high-cost lenders are national chains based elsewhere, such as Kansas, Texas, South Carolina and Ohio.

Opponents mislabel the loan balance as new capital that creates economic benefits. Opponents often assert that the amount of money provided in loans creates indirect benefits that would not otherwise occur. This is flawed for a number of reasons: the fact that the bulk of that loan volume is due to repeated refinancing; the fact that loan repayment takes the money back out of circulation, as well as the money paid for interest; and the unwarranted assumption that no lending activity would occur at rates of 36%.

First and foremost, section 116.175 does not require the auditor to engage in this level of hypothetical what-ifs and multiple assumption analysis regarding indirect affect on economic conditions. But even assuming such indirect costs are properly considered, they are not reasonably certain to predict. First, and most simply, there is the possibility that the Missourians currently trapped in a high-cost loan could have received credit at a lower rate. A majority of payday borrowers have access to credit cards, credit unions and other lenders other lower rate lenders.[11]

Even if the consumer could not have gotten such a loan elsewhere, the predicted loss of indirect economic benefit further unreasonably assumes the consumer would never have made the purchase any time in the future, nor used monies that the consumer could have saved from interest payments for the purchase of other items that would generate economic benefit.

Take, for example, a consumer who buys an item costing $500.00. At the present time, if the consumer does not have $500, she could take out a $500 loan from one of these high-cost lenders and would need to repay the $500 in the future, plus the finance charges that may total up to anywhere between 100-400% APR.

If such a loan at these high costs is not available and the consumer has no other borrowing options, the consumer could still make the purchase after having saved up the $500. Furthermore, if the consumer waits to make the purchase until she has saved sufficient money, the positive indirect benefit to the state would still occur.

Opponents overstate predictions of store closures and job loss. Both in the public and in communications regarding the fiscal impact on the state, opponents make wild claims that a reduction in rates, such as that proposed by the initiative, will result in all or most companies who make these loans going out of business, resulting in massive

[11] George Elliehausen and E. C. Lawrence (Georgetown University), "Payday Advance Credit in America: An Analysis of Consumer Demand" (2001) (94% of payday borrowers have somewhere else to go to borrow money).

unemployment. For a number of reasons, these claims are flawed and unreasonable for the auditor to predict the outcome for the purposes of fiscal impact. Many companies that make these high-cost loans also engage in other lines of business (check cashing, pawns, bill payment operations, etc.) which remain unaffected by the proposal. Also, companies that make these loans, particularly payday lenders, exhibit extremely high rates of annual employee turnover. Opponents' predictions and associated fiscal impacts also fail to account for new businesses that replace storefronts that might close due to the initiative. Combined, these factors undermine any estimates opponents may make in regards to fiscal impact tied to store closing or job loss.

Companies that currently offer high-cost loans also offer other products and services unaffected by the proposed initiative. For example, one of Missouri's largest payday lenders, Ace Cash Express, is one of the nation's largest check-cashing companies and operates stores in states that do not allow triple-digit interest consumer credit loans.[12] Another company, BnP Loan, also deals in pawn lending.[13] Finally, many of Missouri's 510 lenders also engage in, and carry licenses, for mortgage brokering, auto lending and other financial activities in Missouri.[14] For these reasons, it is not reasonable for the auditor to predict which companies that offer loans covered by the petition do or do not offer products which will impact whether they will or will not keep storefronts open if they are no longer able to charge triple-digit APRs.

In regards to job loss, according to a recent report by the University of Missouri Extension, "The largest lenders in Missouri experience high rates of employee turnover. QC Holdings and Advance America – the state's two largest lenders – both reported over 75%

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[12] According to the University of Missouri Extension report "Show-Me Predatory Lending: Where Does the Money Go?" (January 2012), Texas-based Ace Cash Express is one of the top ten payday lenders in Missouri. As of 2006, it was the largest owner of check-cashing outlets in the U.S. See RTO Online, "Nation's Largest Check-cashing Franchise Goes Private", (June 7, 2006):
http://www.rtoonline.com/Content/Article/Jun06/AceCashExpressMergesWithJLL060706.asp.
According to the company's website, they have stores in states such as Arkansas, Maryland, Pennsylvania, and others where rates on consumer credit products are lower than what the initiative proposes. See www.acecashexpress.com.

[13] See the photo on page 6 of "Show-Me Predatory Lending: Where Does the Money Go?", cited above.

[14] For example, according to the Missouri Division of Finance, Springleaf Financial Services is licensed to do business as a mortgage broker, a 510 lender ("small loan company") and a motor vehicle time sales company.

turnover rates among storefront employees in 2010. Nearly half of these employees left the stores within the first 6 months of employment." [15]

Furthermore, research also indicates that the presence of high-cost lenders, such as payday lenders, actually *reduce* the presence of other good, sustainable jobs. In a report by the Keystone Research Center in Pennsylvania (a state that does not allow 400% APR payday, car title or installment loans) they projected that allowing payday loan storefronts into their state would lead to a potential *loss* of 1,800 jobs:

> What would be the jobs impact from the extraction of fees and interest by payday lenders? Since payday borrowers are, by definition, living paycheck to paycheck, it is reasonable to assume that, if they do not pay payday lenders, they would spend that money on consumption. To estimate the impact of this spending on jobs, we can use job multipliers for government programs that target low-income families (such as food stamps). Based on the available estimates, a decline in spending of $234 million would lead to the loss of 1,843 jobs. (These are not poverty-wage jobs but typical or average—i.e., middle-class—jobs.11) This job loss is an extremely conservative estimate because it ignores the economic costs imposed on individuals and communities by the increased incidence of bankruptcy. [16]

Opponents overstate impact on state and local government. Due in large part to the fact that they rely on flawed underlying assumptions about the industry's benefits and impact of the proposed petition, their claims about impact on state and local government are also flawed. First, as explained above, closure of companies that make loans covered by this proposal cannot be reasonably predicted by the auditor. As such, basing impact of licensing fee revenue on such a prediction would be flawed. Additionally, in the litigation last year regarding the fiscal note for this petition, it was noted that, to the extent there are storefront closings, government agencies may experience a savings due to a related decrease in compliance and regulatory expenses.

It is important to note that at least fifteen local jurisdictions in Missouri, including Kansas City and St. Louis, already restrict the clustering or growth of high-cost lenders

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[15] See page 9 of the "Show-Me Predatory Lending: Where Does the Money Go?", cited above, citing 2011 10K reports of Advance America and QC Holdings.

[16] "Bankrupt by Design: Payday Lenders Target Pennsylvania Workijng Families" (May 8, 2012).

within their borders.[17] Such actions reflect the negative economic impact that local governments perceive these types of lending activities have in their communities. In its 2012-2013 Policy Guide, the Missouri Municipal League sought legislative authority for cities "**to ban these operations entirely**".[18] If there is in fact a reduction of storefronts, it may actually be seen as a boost to local governments' broader economic development goals.

Conclusion

By reducing the current triple-digit rates to 36%, as proposed in this initiative, the money otherwise paid in exhorbitant fees will stay in Missouri, contributing to the economic security of families in the state. Today, seventeen states and the District of Columbia prohibit 400% APR payday loans.[19] Collectively, these states save their citizens nearly $2 billion annually and have a robust lending market in which lenders of small dollar loans operate under those states' the interest rate caps.[20]

We can look at the experiences of other states and even the military as an indication of the positive effects of reducing the rates on these high-cost loans. In 2006, Congress reduced the rates on payday and car title loans to members of the military from 400% APR to 36%. And a November, 2011, news article, the Navy Marine Corp Relief Society noted they had saved millions of dollars that used to be spent bailing soldiers out of abusive loan debt.[21] Additionally, in a report from the North Carolina Commission on Banks, following the sunset of 400% APR loans in that state, researchers concluded that the absence of these high-cost loans had no significant impact on the availability of credit

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[17] Kelly Griffith (Southwest Center for Economic Integrity), Linda Hilton (Coalition of Religious Communities) and Lynn Drysdale (Jacksonville Area Legal Aid), "Controlling the Growth of Payday Lending through Local Ordinances and Resolutions" (September 2010) See http://www.economicintegrity.org/pdf/PDL-Local_Ordinance_master_9_09.pdf.

[18] Missouri Municipal League, "2012-2013 Missouri Municipal Policy" pp. 23-4. See http://c.ymcdn.com/sites/www.mocities.com/resource/resmgr/2012-2013policystatementforp.pdf

[19] Arizona, Arkansas, Connecticut, Georgia, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, West Virginia and Vermont.

[20] Center for Responsible Lending, "A 36% APR Cap on High-cost Loans Promotes Financial Recovery," (January 2009). See http://www.responsiblelending.org/payday-lending/policy-legislation/congress/payday-and-the-economy.pdf.

[21] Russ Bynum, Army Times, "Soldier Claims He was a Predatory Lending Victim" (November 22, 2011).

for households in North Carolina.[22] Moreover, more than twice as many former payday borrowers reported that the absence of 400% payday loans had a positive rather than negative effect on their households.[23]

In closing, I would reiterate that this statement is being provided as a pro bono volunteer effort, much like the rest of the efforts seeking reform of these abusive lending practices in Missouri. Just as I see countless Missourians trapped in these high-cost loans, so do the churches, social service agencies, senior citizens groups, grassroots organizations and others, who are calling for an end to triple digit interest rates.

As you noted this past April, commenting on the payday lenders' whipsaw litigation tactics in the fiscal note process, "The payday loan industry spreads money around Jefferson City like butter, and this is only the latest attempt to protect their 400 percent interest rate on payday loans." Just as the old "brokerage fee" ruse was used by payday lenders to charge their exorbitant rates, they now employ a more sophisticated ruse, one cooked up with the aid of high-paid economists. But it is still a ruse.

I and others involved in this campaign believe you will carry out your statutory duties in the fiscal note process regardless of the high-cost loan industry's attempts to blur the clear and straightforward fiscal analysis called for by the law. Thank you for your consideration.

Sincerely,

Dale K. Irwin

DKI/com

[22] "North Carolina Consumers after Payday Lending: Attitudes and Experiences with Credit Options." (November 2007). See http://www.ccc.unc.edu/documents/NC_After_Payday.pdf.

[23] *Id.*

Erich V. Vieth provided the following information as a proponent of this initiative petition.

The Simon Law Firm, P.C.
Attorneys and Counselors at Law

December 18, 2012

Thomas A. Schweich
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101
moaudit@auditor.mo.gov

Re: 14-018 - Proposal related to Chapters 367 and 408, RSMo, Version 2 (Consumer Credit Loans)

Dear Auditor Schweich:

Before presenting my comments regarding the Proposed Petition, it's important for you to know who I am. For much of my career I have represented consumers. This includes four years (1986-1990) while I worked for the Missouri Attorney General's Office in the St. Louis Trade Offence Division, where I handled a wide variety of consumer fraud cases. For the past 8 years, I have represented numerous consumers, including those affected by predatory lending practices. Here at the Simon Law Firm, John Campbell and I have settled two note-worthy class actions against payday lenders doing business in Missouri, obtaining dozens of millions of dollars of relief for Missouri Consumers. I often speak to consumers who have been financially damaged, and even ruined, by high cost loans offered by payday lenders, title lenders and other high interest installment loans. By "high cost," I'm referring to loans charging triple digit APR.

Based on what I have seen and heard over the years, I am a strong proponent of the above Proposed Petition, which is identical to the Petition circulated last year. This proposed new law is so important to the welfare of Missouri citizens that I volunteered many hours of legal work on the appeal of last years' petition before the Missouri Supreme Court.[1] I am not receiving any compensation from any person or entity to write and submit this letter. By writing this letter I will not personally benefit, other than by feeling good that I did the right thing.

[1] Mr. Campbell and I helped to write briefs and memoranda filed on behalf of proposed intervenors George Dennis Shull and Jerry Stockman. We then travelled to Jefferson City to participate in the oral arguments. *Brown v. Carnahan,* 370 S.W.3d 637, 647 (Mo. 2012). This case was decided by the Missouri Supreme Court on July 31, 2012.

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I am writing to respond to information provided by opponents of the Proposed Petition. In particular, I am responding to a December 5, 2012 letter provided by Mr. Robert Zeitler. In his letter, Mr. Zeitler might seem to be merely a concerned citizen. He is not. Mr. Zeitler fails to tell you about his motivations and background. It is important for you to know about Mr. Zeitler, so that you will be in a position to evaluate his claims.

I met Mr. Zeitler back in 2007 when I took his deposition with regard to litigation I had filed. Back then, he was the owner of chain of a payday loan shops called Advance Loans II. At present, he works for a different payday lender. http://www.fastlendinghelp.com/leadership.php Because of his decision to work in the payday industry, his opposition to the initiative is financially motivated (see http://www.fastlendinghelp.com/services.php#loans). From Mr. Zeitler's public bio we learn the following:

> He founded and served as a board member on the Missouri Pay Day Loan Association in 2001 which now has 1200 member organizations nationwide. He recently joined the CFSA (Community Financial Services Association of America) as a Director on their board, a leading industry organization advancing innovative business practices and best-in-class industry standards. In this capacity it is anticipated that Bob will assist in spearheading efforts to help rewrite various statutory laws.

That he is a "proud member" of the CFSA is something your office should note when considering Mr. Zeitler's opinions. CFSA promotes the interests of payday lenders. http://www.fastlendinghelp.com/ At his own site, Mr. Zeitler describes himself as a "visionary" in the payday loan industry.

Although Mr. Zeitler has criticized the proposed new law because it would purportedly be contrary to the interests of banks, he has no special expertise in this area; he does not appear to have any experience working in the traditional banking industry. http://www.zoominfo.com/people/Zeitler_Bob_102747405.aspx.

In Mr. Zeitler's December 5, 2012 letter, which recently came to my attention, he claims that overdraft fees will be impacted by the Proposed Petition. His letter is factually unsubstantiated, however, and it cannot be reasonably relied upon by your Office for the following reasons:

- His letter does not include any information regarding the amount of bank revenue from overdraft activity in Missouri;
- He fails to establish any impact the Proposed Petition would have on overdraft revenue;
- He offers no fact-based analysis regarding the effect of overdraft activity on state and local governments; and
- Even assuming that the proposed new law would reduce overdraft revenue (an assumption I deny), Mr. Zeitler fails to account for the fact that that money that

consumers would have been paying for overdraft fees would (under the new proposed law) be spent in other ways, many of which would generate tax income for the state of Missouri. Mr. Zeitler's analysis, which is not substantiated with facts, does not rule out that the proposed Petition could be tax-neutral or even financially beneficial to Missouri. What would Missouri citizens be spending their money on if they weren't paying exorbitant overdraft fees? Mr. Zeitler's analysis is silent on this point.

In short, Mr. Zeitler's "analysis" is spun out of thin air. Further, his interpretation of overdraft activity is inconsistent with the May 13, 2011 Interpretive Letter issued by the Missouri Division of Finance. http://finance.mo.gov/Contribute%20Documents/InterpretiveLetter5-13-11.pdf This letter addresses overdraft fees as they apply to state chartered banks.

Mr. Zeitler's letter fails to provide any information on which the Auditor could reasonably rely in estimating the financial impact of the Proposed Petition on state and local government. For these reasons, the alleged economic impact described by Mr. Zeitler should not be relied upon by your office in drafting the fiscal note.

Sincerely,

Erich Vieth

Marc H. Ellinger on behalf of Stand Up Missouri provided the following information as an opponent of this initiative petition.

Executive Summary

This initiative petition, 2014-018, relating to payday, title, installment, and consumer credit loans is identical to Initiative Petition 2012-066. As a result, proponents of the measure have urged the Secretary of State "to consider use of the same ballot title [as 2012-066]" in their letter of November 21, 2012. We anticipate that proponents will likewise suggest to the Auditor that the fiscal note for this proposed measure should be the same as the fiscal note for 2012-066.[1] In light of substantial and persuasive evidence that was discovered after the drafting of the fiscal note for 2012-066, we urge the Auditor to reconsider the fiscal impact of the proposed initiative and draft a new and different fiscal note for initiative petition 2014-018.

Summary of Initiative Petition 2014-018

- The initiative caps annual rates of interest, fees, and finance charges for payday, title, installment and consumer credit loans at 36%.

Proposed Statement of Fiscal Impact for Initiative Petition 2014-018

State governmental entities could have annual lost revenue of at least $31 million. Local governmental entities could have significant lost revenue of at least $X million[2] [more than $5 million based on loss of 510 lending].

Information Submitted Pursuant to Section 23.140.2 and 15 CSR 40-5.010

The cost of the proposed amendment to the state for the next two fiscal years is significant.

ESTIMATED NET EFFECT ON STATE FUNDS (in millions)			
Fund Affected		**FY 2015**	**FY 2016**
General Revenue			

[1] Proponents might even go so far as to suggest the fiscal note should be the same because the previous fiscal note was upheld by the court in *Brown v. Carnahan,* 303 S.W.3d 637 (Mo. banc 2012). This, however, would be a misreading of the court's decision. The court only found that the previous fiscal note and fiscal note summary were not insufficient or unfair. *Id.* at 667. The court's decision was based on its opinion that "nothing require[s] the auditor to look beyond the information he was provided[.]" *Id.* Much of the information herein, including the information related to 510 lenders and to the impact on local funds was not provided to the Auditor when he assessed Initiative Petition 2012-066. As the Auditor will have before him a different, more complete, picture of the impact of the Initiative Petition, we would urge a different, more complete fiscal note and fiscal note summary, i.e., one that includes additional losses to the state based on the impact on 510 lenders and one that includes the losses to local government funds as described herein.

[2] This number will need to be calculated based on the 2014 Haslag Analysis as well as any amounts reported to the Auditor by the local jurisdictions themselves. The analysis herein of local fiscal impact only addresses the local fiscal impact of the loss of 510 lenders.

	Estimated Fiscal Impact of Loss of Payday and Title Lending	$16.360[3]	$6.330[4]
	Estimated Fiscal Impact of Loss of 510 Lending	$14.7882[5]	$6.1432[6]
Total Estimated Net Effect on All State Funds		**$31.1482**	**$12.4732**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
Fund Affected		**FY 2015**	**FY 2016**
Local Funds			
	Estimated Fiscal Impact of Loss of Payday and Title Lending	#.####[7]	#.####

[3] See the Haslag Analysis, submitted to the Auditor on December 4, 2012. The 2014 Haslag Analysis is substantially similar to the 2012 Haslag Analysis. This submission relies on the Haslag Analysis as the Office of the Auditor has previously found that the 2012 Haslag Analysis was accurate, reasonably complete and relevant to the analysis of fiscal impact. Trial Transcript (attached as Appendix C), 21:16-22:7. Haslag's fiscal projections are based on the assumption that the proposed initiative would force businesses to close, an assumption that the Office of the Auditor believes is correct. App. C., 30:7-12. This number also reflects the fiscal impact due to unemployment compensation. The Auditor did not include this amount in the Fiscal Note for Initiative Petition 2012-066, but it was shown at trial that unemployment compensation is included in the State's Comprehensive Annual Financial Report, categorized as an "Expense" under "Governmental Activities." App. C., 50:22 – 51:11. The Office of the Auditor did agree that Haslag's estimate of $8.04 million in unemployment insurance benefits was a reasonable assumption and correct analysis. App. C., 45:17-23.

[4] *Id.*

[5] See Durkin Report (attached as Appendix A), Table 3. This number has been adjusted to additionally account for loss of state licensing fees. Durkin's report suggested there are approximately 664 licensees (see App. B, n.3). The lost license fee revenue equals 664 x $300 = $199,200. This revenue would be lost in both FY 2015 and FY 2016. Durkin's Report is included here because Haslag's 2012 Analysis did not include any fiscal impact on "510 lenders." See App. C., 35:1-5. In addition, this number should be considered a baseline for loss of revenue. Total economic impact is determined by measuring direct impact, indirect impact and induced impact, which many refer to as the "multiplier effect." While this analysis seeks to estimate the direct and *some* of the indirect impact, it in no way accounts for the significant losses that would result from the reverse multiplier effect that would result as a closure of so many entities in Missouri.

[6] *Id.*

[7] The Haslag 2014 Analysis suggests a local impact loss of $122,000 (only accounting for the local impact on the City of Kansas City and Springfield). Haslag testified at trial that the minimum impact on local governments for the loss of payday and title lenders is $122,000. App. C., 147:14-21. Undoubtedly, the local impact will be greater than this amount, as there are numerous other jurisdictions with payday and title lending entities that will be forced to close as a result of the proposed measure. This number should reflect the amount stated in the 2014 Haslag Analysis plus any additional amounts reported by local governments.

	Estimated Fiscal Impact of Loss of 510 Lending	$5.1890[8]	$4.4732[9]

With Initiative Petition 2012-066, the Auditor's Office only sought input from a limited number of local jurisdictions with respect to the potential fiscal impact of the proposed measure. To the extent the Auditor's Office intends to seek input from the same entities for this initiative petition, we respectfully request that the Auditor's Office seek information from all of the cities and towns listed in Appendix D and the counties in which they are located. There are 510 lenders in each of these local jurisdictions, and each will be uniquely and significantly impacted by the closures of businesses in their communities. Without information from these local jurisdictions, the fiscal note and the fiscal note summary will significantly underestimate the impact on local funds.

The proposed amendment would neither establish a new program or agency nor duplicate an existing program or agency.

The proposed amendment is not a federal mandate.

No new program or agency is being created; therefore, there is no new program or agency that will have a direct fiscal impact on any political subdivision of the state.

No new physical facilities will be required by the proposed amendment.

The proposed amendment will have a significant negative economic impact on small businesses in FY 2015 and going forward. According to Haslag, the proposed initiative would force the 1,066 payday loan stores and 270 title lending stores to shut down. This would result in a corresponding loss of 2,665 and 615 jobs. According to Durkin, the proposed initiative will result in the demise of the 510 lender industry entirely. This translates to the loss of nearly 664 licensed 510 entities and the loss of approximately 2,200 jobs. *See* App. A, p. 10. Small businesses, outside the consumer credit industry, will also be negatively affected due to the lost retail sales as a result of loans not made and as a result of lost sales due to "belt tightening" by former employees.

Conflicts in Submissions for 14-007

The language for Initiative Petition 14-007 is identical to the language of this Initiative Petition. In the fiscal impact submissions for 14-007, there were numerous conflicts, which are set out in detail below. All references to "SAO ####" are documents obtained from the State Auditor through an Open Records Request related to submissions on 14-007 and numbered by the State Auditor's Office.

[8] Neither the Haslag 2012 Analysis nor the Durkin Report directly addressed the fiscal impact on local funds. See App. A. & App C., 152:18-25. Using methodology identical to the methodology used in the Durkin Report, one can arrive at an estimate of fiscal impact on local funds. *See* Appendix B.

[9] *Id.*

City of Columbia

The City of Columbia reported the following: "The City of Columbia has licensed 17 loan companies. If the legislative change causes them to stop operating, the city would lose about $56 in licensing fees." (SAO00053). The minimum business licensing fee for the City of Columbia is $15 per year plus a $20 application fee. The yearly fees from 17 loan companies therefore should be at least $595(17 x (15+20)). Opponents request that the State Auditor contact the City of Columbia to determine the source of the $56 figure. In the alternative, given the facts, opponents urge the Auditor to find the City of Columbia's response unreasonable.

City of Kansas City

The City of Kansas City has reported "no fiscal impact." (SAO 000055). However, the Haslag Submission suggests that the City of Kansas City has previously stated the impact would be nearly $120,000. (SAO 00086). We previously suggested Kansas City would be impacted by lost sales tax revenue due to retail sales not made, lost earnings tax revenue due to lost income of former employees, lost sales tax revenue due to "belt tightening" by former employees, and lost local license fee revenue due to business closures. (SAO 00016-17). The Office of the Auditor has previously suggested that these types of losses are likely and would be appropriate to include in the fiscal impact of the measure. (SAO 00116). Opponents request that the State Auditor contact the City of Kansas City in an attempt to resolve the conflict between the City of Kansas City's Response and the other conflicting information. In the alternative, given the facts, opponents urge the Auditor to find the City of Kansas City's response unreasonable.

Other Local Jurisdictions

In addition, the City of Jefferson (SAO 00054), the City of St. Joseph (SAO 00056), and the City of Wentzville (SAO 000057) all indicated no fiscal impact. However, our previous submission indicates that there are entities in each of these local jurisdictions that will be affected. Not only will they be affected, but they will close, a fact that none of the submissions, nor the Office of the State Auditor has ever contested. These jurisdictions would be impacted by lost sales tax revenue due to retail sales not made, lost earnings tax revenue due to lost income of former employees, lost sales tax revenue due to "belt tightening" by former employees, and lost local license fee revenue due to business closures. (SAO 00016-17). Opponents request that the State Auditor contact these local jurisdictions in an attempt to resolve the conflict between the responses. In the alternative, given the facts, opponents urge the Auditor to find the responses of the City of Jefferson, City of St. Joseph and the City of Wentzville unreasonable.

Department of Insurance Financial Institutions, & Professional Registration

The Missouri Department of Insurance, Financial Institutions, & Professional Registration reported the following:

> The department…anticipates it will have no cost or savings to the department. If the adoption of the measure results in a reduction of fee revenue from consumer credit entities, the department anticipates it would expend a correspondingly smaller amount to regulate these entities.

(SAO 000130). This conflicts with an initial review of the exact same initiative petition language by the Department which is attached to the Haslag Submission as Exhibit A (SAO 00089). This conflict was addressed at the March 27, 2012, trial on an identical initiative petition. The DIFP response purports to equate the loss of fee revenue to the savings that results from fewer employees to regulate the entities. At trial, Haslag testified that it would be impossible for the loss of four or five consumer credit examiners to offset the projected $675,000 loss in fee revenue. (App. F., 144: 2-7). Even assuming the positions eliminated earned the highest salaries (and benefits equal to thirty percent of their salary), and assuming five, not four, examiners would be eliminated, the total comes to only $487,500. (App. F., 142-143). This would still result in negative fiscal impact to the Department in the amount of $187,500. (App. F., 143:19-23). Opponents request that the State Auditor contact DIFP in an attempt to resolve the conflict between its original analysis (Exhibit A to the Haslag Submission) and the response it provided for Initiative Petition 14-018. In the alternative, given the facts, opponents urge the Auditor to find the DIFP's response unreasonable.

Division of Finance

Durkin suggested, in pages 8-9 of his report, that the Division of Finance must have made a typographical error because the Division of Finance reported the amount of loans made declined 36 percent, while also reporting increases in total industry assets, total operating income, total expenses, net earnings, and number of loans made. (SAO000108-109). The Division of Finance denies it was a typographical error and explains the anomaly as follows: "During the time period reviewed…there were many changes in the industry. Several large licensees dropped their licenses for a period of time which meant they did not have to report. This caused the numbers during the period to fluctuate greatly." (SAO000138). This explanation only casts doubt on the accuracy of the numbers in the Division of Finance report, not doubt on the way Durkin estimated loans made. His assumption that loans remained at the same level as the prior year, given the other data suggesting industry growth, remains a reasonable estimation.

Appendix A – Durkin 2012 Report
Appendix B - Estimates of Annual Local Fiscal Impacts of Loss of 510 Lending
Appendix C – Excerpts from the March 27, 2012 Trial Transcript
Appendix D – Cities and Towns Impacted
Appendix E – City of Columbia Business License Fees
Appendix F – Additional Excerpts from the March 27, 2012 Trial Transcript

Appendix A

Thomas A. Durkin February 21, 2012

My name is Thomas A. Durkin. I am retired from the Division of Research and Statistics of the Federal Reserve Board, where I most recently was Senior Economist. In that position I studied the economics of consumers' use of financial services, in particular consumer credit. I previously held the position of Regulatory Planning and Review Director at the Federal Reserve Board. In that position I reviewed regulatory changes for consistency with Board policies and supervised the Board's ongoing program of regulatory review and improvement. My research focus during that time remained consumer financial services, especially consumer credit.

I have an A.B. degree from Georgetown University and a Ph.D. degree from Columbia University. I have studied consumer financial services and consumer credit in the academic, private, and public sectors for more than forty years; almost two thirds of my employment career years were with the Federal Reserve Board.

I have been asked by legal counsel for plaintiffs Tiffany Francis and Troy Hoover to examine certain factual information about installment lending in the state of Missouri and provide opinions on two things: 1) Whether history and available factual information suggests anything about likely future installment lending trends in the State of Missouri if the allowable ceiling Annual Percentage Rate on such lending in the state is established at no more than 36 percent; and 2) Whether these likely future lending trends suggest an impact on fiscal matters, in particular on revenues and expenses of the State of Missouri.

Neither the plaintiffs, associates, supporters, legal counsel, nor anyone else discussed with me in advance what I might say in response to this two-part request. Likewise, neither the plaintiffs, associates, supporters, legal counsel, nor anyone else has exercised any editorial control over the contents of what I have said.

I have asked for a fee for tasks that included becoming familiar with the legal environment surrounding installment lending in the State of Missouri, acquiring and studying statistical information on installment lending in the state, reviewing historical and economic professional literature about installment lending, and preparing this document. I have not asked for and will not accept compensation (other than typical and normal travel expenses) for any future public discussion that I might engage in about my findings and conclusions in this paper, such as through testimony or otherwise (unless such discussions become inordinately time consuming such as through participation in multiple events or multiple days). Rather, it is my

preference that any such public discussion be considered a post-retirement contribution to the public interest.

I do not have opinions on political matters or undertakings in the State of Missouri. Specifically, I do not have an opinion on whether the State of Missouri should amend its statutes or constitution to eliminate installment or other lending in the state at Annual percentage Rates greater than 36 percent. I limit my review and discussion of the lending situation in the state to the matters discussed in this paper.

1. Likely Future Installment Lending Trends

A. Background. Interest rate ceilings on loans of money or goods are possibly the oldest continuously running controversy. Found in recorded history as early as the ancient Babylonian Code of Hammurabi (c. 1770 BC), imposed rate ceilings probably extend even farther into unrecorded antiquity. Historical evidence shows that through much of history ceilings have been evaded, which suggests, at a minimum, that ceilings have been controversial (for extended historical discussion, see Homer and Sylla 1996 and Gelpi and Julien-Labruyere 2000, included in the references at the end of this paper).

Today in the twenty-first century United States, a good deal of the modern controversy over interest rate ceilings concerns a variety of consumer lending products and processes collectively often referred to as "high cost." Triple digit interest rates interest rates in some areas have attracted the attention of various individuals and organizations who would like to see these rates much lower.

It seems worthwhile to note first in this discussion the truism that a triple digit (or any other) disclosed interest rate on a loan is not the "cost" of the loan. The cost of any purchase is what must be given up for it, and in non barter transactions in the United States, even for loans of money, this is a number of dollars and cents. The interest rate disclosed as the Annual Percentage Rate required by Truth in Lending merely relates this cost to the amount and pattern of loan repayment (principal and interest), expressed in annual terms. The cost of the loan is still the number of dollars expended on it. For example, a loan of $500 for one year at an interest rate of zero percent, obviously would cost zero dollars. At 36 percent the same loan repayable in equal monthly payments would cost $102.77 or an average of $8.56 a month. At 90 percent interest rate, the same loan would cost $275.67, or an average of $22.97 per month, the recent monthly cost of about 6 gallons of milk or gasoline.

Examined this way, the kinds of loans mentioned above as "high cost" exist ultimately under at least a partial misnomer. The dollar costs of such loans are not actually high, but they appear so when related to loan amount and maturity and annualized in the way that

Truth in Lending requires. The dollar costs of such loans actually are much lower than for typical larger or longer alternatives. To use another simple example, a one year loan of $500 at APR of 36 percent costs $102.77, as indicated above. In contrast, a four month loan of $500 at APR of 90 percent costs $97.14, a lesser amount. Nonetheless, the mathematics of APR calculation makes the latter loan appear almost three times as costly. One more example: a $2000 loan for two years at APR 18 percent costs $396.36, four times as much as the 90 percent four month loan ($97.14), despite an APR only one fifth as high.

Such loans could well be referred to as "small" or "short term" (or both) instead of "high cost" with similar usefulness of description. As useful as Truth in Lending has proven to be, it summarizes the dimensions of loans into one rate number and a summary of this kind can produce anomalies under some circumstances. (For discussion of a variety of anomalies under Truth in Lending, see Durkin and Elliehausen 2011, especially Chapters 4-6.) All this raises the question why might the costs of small loans appear so high relative to loan amount and maturity? The answer to this arises from the economics of production costs.

For small loans, the dollar production cost of the loan looms large not in total but rather *relative to the dollars of the loan.* Much of the production cost arises form the necessity of maintaining lending locations entailing rent charges, employing personnel who must be paid salaries, and acquiring office supplies and equipment with prices and amortizations. There also is the cost of the lending capital itself and the cost of risk, which can also be substantial relative to loan amount for small loans. Almost by definition, a borrower in need of a small loan is going to be a risky borrower.

To cover the average cost of extending a small size loan, a lender will need to charge a number of dollars for the loan that is large *relative to the amount of the loan*, even though the dollar amount of the cost is not in itself very large. Despite the loan size, the lender still needs enough revenue to justify obtaining and maintaining the lending location, hiring and paying the personnel, acquiring the supplies and equipment, raising the capital, and allocating the risk cost. Translating these necessities for small loans into an Annual Percentage Rate as required by Truth in Lending makes the disclosed rate appear very high, even though the dollars involved are much less startling. This anomaly occurs simply because the production cost looms large relative to the loan dollars involved and the short term of the loan maturity (or both).

Difficulties surrounding the relationship of production cost to loan amount and maturity on small loans is hardly a new question. At the outset here, it is worth recalling that the National Commission on Consumer Finance (NCCF) extensively discussed the matter in its *Report* to the Congress in the 1970s. The NCCF was a federal study commission

established by Title IV of the federal Consumer Credit Protection Act of 1968, the same law that established Truth in Lending as Title I. According to Section 404: "The Commission shall study and appraise the functioning and structure of the consumer finance industry, as well as consumer credit transactions generally. The Commission in its report and recommendations to the Congress, shall include treatment of the following topics: 1) The adequacy of existing arrangements to provide consumer credit at reasonable rates...." The Commission consisted of three members of the Senate, three members of the House of Representatives, and three public members appointed by the President. The Commission had a staff or economists and lawyers and retained the services of a number of outside economists and lawyers as consultants. In addition to its extensive *Report*, the Commission also issued six volumes of supporting technical studies.

In Chapter 7 of its *Report*, the Commission explored the relationship among lending production costs, rate ceilings, and credit availability for consumer finance companies making installment loans. As part of its investigations, the Commission undertook extensive data gathering and empirical work. To study costs of consumer finance companies, the Commission engaged the late Professor George J. Benston of the University of Rochester, the leading expert in the country at the time on the use of statistical cost studies of production processes of financial institutions (see Benston 1975 and Benston 1977). While the Commission undertook its work many years ago, the underlying principles have not changed and the Commission's work remains illustrative. As a first look at the Missouri situation in 2012, it is useful to examine the Commission's findings.

One of the Commission's interesting findings based upon its cost studies was how the annual percentage rates necessary before a consumer finance company would make loans of small sizes would have to be quite high, approaching triple digits at the smaller loan sizes, due to the necessity of covering production and risk costs with only small amounts of loan dollars. Adjusting the Commission's findings for inflation over the years since then, the Commission's cost work suggests the necessity of APRs of at least 43 percent before installment finance companies would make loans of $1500 today. Smaller loans would require even higher rates because of the necessity of recouping the production costs from even smaller loan amounts.

In more detail, since the time of the Commission's *Report*, there has been substantial domestic inflation. The smallest loan sizes the Commission explored in 1972, $100 and $200, in 2010 had the purchasing power of about $522 and $1044. It is possible similarly to adjust the underlying production costs the Commission explored for inflation to look at the relationship between costs and loan interest rate necessary to cover costs in today's dollars. Adjusting directly for changes in the consumer price index over this period is not unreasonable because much of the operations of consumer finance

companies making such loans have not changed very much. While some cost-causing features of lending have undoubtedly changed over the decades, for example, office automation has reduced record keeping costs, most have not. Consumer finance company lenders still must pay personnel costs, rents, equipment costs, utilities and postage, and taxes. Salaries and benefits of employees per price-adjusted loan dollar likely have not decreased, even with office automation, because the more sophisticated nature of the technologies employees now use for record keeping require better educated and trained employees.

Translating the Commission's findings directly into today's dollars, the Commission's conclusion was that the Annual Percentage Rate on today's $522 loans for one year would have to exceed 94 percent before lenders would be willing to make such loans at the risk level the Commission suggested was necessary to "allow for enlargement of the market through a higher degree of risk acceptance" (National Commission on Consumer Finance 1972, p. 144). Further, rates on today's $1044 loans would need to exceed 56 percent before lenders would consider loans of this size, and rates would have to exceed 36 percent for any loan size less than $2088 (see discussion and table in National Commission on Consumer Finance 1972, p. 144).

Even then, these conclusions about necessary rates assumed that loans would be made for a one year period. The Commission specifically noted that shorter term loans would need even higher APRs because the loans would be outstanding even less time but the operating costs would still need to be recovered. According to the Commission, "Recognizing that loans of [typical small sizes found then], the required APR will be higher than in Exhibit 7-16 [of the Commission's *Report*] because the costs of putting the loan on the books and servicing it must be recaptured over the shorter time" (National Commission on Consumer Finance 1972, p. 145). The Commission's cost estimates also assumed monthly payments. Operating costs would be higher for loans with more frequent payments because they would require more personnel costs for servicing the more frequent payments, other things equal.

The historical record demonstrates the seriousness of the Commission's concerns over credit availability. Well known to the Commission, beginning in 1910 the Russell Sage Foundation had undertaken a philanthropic program to fight illegal loan sharks then prevalent in many places. The Foundation proposed for passage in the various states model legislation known as the Uniform Small Loan Law and advocated its acceptance. This model act provided for exceptions to low state rate ceiling laws to permit state-licensed lending entities to provide small dollar cash loans to consumers legally. By the 1960s, almost all states had passed a version of this law. Even so, well known inadequacies of legal rates on the smallest loan sizes had come to the National Commission's attention and were the

motivating factor in its study of this area and recommendations in 1972.[1]

History has shown that rate reductions lead to lending service reductions. For instance, a study by the Russell Sage Foundation in 1935 detailed the effects of the state of Missouri's reduction of its maximum monthly rate from 3½ to 2½ percent in 1929 (see Robinson and Nugent 1935, pp. 255-9). According to this source, companies already making larger loans at 2½ per month were not affected, but companies making smaller loans at the higher rates saw three kinds of effects: 1) Switch by some companies to making larger loans to a "careful selection" of borrowers at the new monthly ceiling rate; 2) Sale of offices and accounts to chain companies who made larger loans in larger offices; and 3) Rapid decline in the business of those making smaller loans. Robinson and Nugent noted that the Better Business Bureaus in Kansas City and St. Louis reported "an increase in unlicensed lending following the rate reduction" (P.257), known then and now as loan sharking. The number of licensed lending offices declined 49 percent from 174 in 1928 to 89 in 1932. This was a period of depressed economic conditions, but the authors noted that "Comparison of the course of the amount of loans outstanding in Missouri with the aggregate course for other states which did not reduce maximum interest rates demonstrates the depressing effect of the rate reduction in Missouri on the normal growth of the business" (P. 253). They found that over time the rate of profitability in Missouri gradually again approached profitability elsewhere. But this occurred, of course, at a much lower level of lending service in the smaller loan sizes.

B. Current Experience. With this as background, what does this mean for Missouri lending today? Only a limited amount of statistical information is available about Missouri installment loans, but I have obtained some information from lenders through their attorney and from the state through a Freedom of Information request by lenders and later made available to me.

Company reports for lenders that are primarily 510 lenders indicate that they charge rates of 90-106 percent for average size loans of $465-$500. After inflation adjustment of the loan size, these

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[1]The Uniform Small Loan Law's early choice of 3½ percent rate per month was based on the Russell Sage Foundation's studies of cost and experience of remedial loan companies and other small loan lenders at the time (see Clark 1931, pp. 46-7, Robinson and Nugent 1935, pp. 115-7), and Carruthers, Guinnane, and Lee 2009, p.13).

Even then, the Foundation recognized that most lending costs are fixed, so that a 3½ percent ceiling made a $100 loan less profitable than a $300 loan, discouraging production of the smaller loans. The Foundation's position on transparency and simplicity of the transaction prevented it at first from supporting any particular remedy for this problem, however, such as allowing the lender to charge a higher percentage finance charge for smaller loans or a fixed fee per loan (see Carruthers, Guinnane, and Lee 2009). Either of these changes would complicate the transaction. Graduated rate ceilings, which allow higher rates on smaller loans, later became a common feature in state small loan laws.

are almost exactly the rates the National Commission suggested in 1972 would be necessary for consumer finance companies to be willing to make risky consumer cash loans of comparable size at that time.

There has been a petition circulating in Missouri for a ballot initiative that would lower allowable interest rates in the state to be no more than 36 percent. The numbers suggest that passage of this proposal would lead to substantial disruption of the consumer installment lending market for small cash loans in the state. If, as the evidence suggests, small loan cash lenders currently charge rates over 90 percent for loans in the $500 dollar size range, a 36 percent rate ceiling would lead to a substantial reduction in revenue on these loans. If, as the National Commission suggested, free market lenders need an annual rate of more than 56 percent to be willing to make one year $1000 loans, a 36 percent ceiling would dramatically impact this market as well. In fact, based upon the National Commission's cost work, installment lending at least up to size $2088 would face disruption, with lenders unwilling to make loans smaller than this threshold because they would be unprofitable. Although in some places the small loan industry began as a philanthropic and charitable undertaking, this has not been the case for many decades. As long ago as 1910, the Russell Sage Foundation determined that charitable lenders could not generate sufficient capital to satisfy the demand for small loans where lack of profitability limited the flow of capital (see Ham 1912). It is difficult to imagine today that lowering acceptable rates on $500 loans to 36 percent would newly encourage sufficient capital to flow through new charitable lenders to satisfy the evident demand for small loans.

Available statistical information is not as complete as would be preferable, but it appears clear enough that a rate ceiling of 36 percent will eliminate today's 510 lending industry in Missouri. Assume, as available evidence suggests, that 510 lenders make one year loans that average $500 in size and charge an APR of 90 percent. A rate ceiling of 36 percent would then produce a decline in industry revenue of 60 percent (i.e. (90 percent - 36 percent)/original 90 percent = 60 percent decline).

Applying the 60 percent decline to statewide 510 lender revenue of $200 million in 2009 and $228 million in 2010 (Table 1, line 28) produces revenue declines of $120 million and $137 million in the two years, respectively. Clearly the industry could not survive without dramatic change. These projected revenue declines exceed the amount of total industry profit recorded in the two years *by large multiples* (compare to Table 1, line 51). No industry could survive such a situation without the likelihood of a pending dramatic rapid reversal of prospects.

Under such circumstances, it seems probable that the entire industry known as "510 lenders" would disappear within a short period

of time. Not all lending offices would close immediately, as some lenders would retain some offices while they liquidated outstanding loans. There also might be some "loss leader" loans to identify good credits who can become eligible for larger loans, and some lenders likely would switch to making larger loans not as affected by the restrictive rate ceiling on the smaller sizes. (These companies would have to compete aggressively to enter this market that would be new for them, and without a dramatic increase in borrower demand for larger loans, it is not at all certain they would be successful in doing so.) There also might be some lenders who might try to find a portion of less risky borrowers who would be willing to borrow more than they actually need (through larger loans) in order to obtain credit at all. Even at a lower APR, these loans could well cost individual consumers more than the small loans no longer available, even much more, because of their larger sizes and longer maturities. But within a short time it appears that the legal small loan industry would largely disappear, as it has in many other states.

Projected losses would come about because each small loan, if made, would individually produce a loss on average. In the absence of a rate ceiling, the industry has been willing to make many small loans, but it could not do so if each loan produced a loss. The question arises what would be the consumer savings under the new regime, *assuming loans would continue to be made, say by the government*. A $500 installment loan for one year at an annual percentage rate of 36 percent would, *if made,* generate 12 equal payments of $50.23. At 90 percent, the same loan would generate 12 payments of $64.64. In other words, for a hypothetical or phantom consumer savings of $14.41 per month on a $500 loan for one year, 510 lenders would leave the market and consumers would no longer be able to obtain such loans in most cases, unless the government decided to enter this market, using tax dollar resources.

2. Impact on State Fiscal Matters

Based upon compilations supplied by the Division of Finance, lenders referred to as 510 lenders are estimated to have made about $850 million of loans in Missouri in both 2009 and 2010.[2] It is not

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[2]This estimate is made as follows: The Division of Finance supplied the totals reported here in Table 1. For loans made, however, it appears that the Division should have supplied its compilation for line 68b of its data collection form rather than line 70b which also includes loans outstanding at the beginning of the year and loans purchased. To provide an estimate of line 68b, I examined the complete data forms supplied to me by some lenders operating in the state. I found that, excluding loan purchases and sales of loans that likely net to close to zero statewide, line 68b as a proportion of line 70b was in the range of 74 to 80 percent with an average of 75.3 percent. Aggregate line 70b multiplied by 75 percent produced an estimate of loans made (line 68b) of $858 million for 2009.

In 2010 it appears that the Division's line 70 must be a typographical error. In that year, total industry assets were about the same as in 2009 (line 1), total operating income rose considerably (line 28), total expenses rose somewhat (line 50),

possible to determine with any certainty what the impact of disappearance of such loans would be upon retail sales in the state, but it would have to be substantial, considering how consumers employ consumer credit. Consumers do not borrow to hoard or waste the resources, but rather to make purchases and to support financially the making of purchases. Evidence from surveys of consumers undertaken over the decades by the Federal Reserve Board shows that most consumer credit is used to purchase retail goods and services, including educations (see Table 2).

Without comparable Missouri surveys, the amount of Section 510 loans used on retail purchases in the state cannot be known with certainty. But if retail sales of goods and services accounted for only 15 percent of the amount of the estimate of $858 million of loans made in 2009 and 2010 loans made (certainly a low proportion spent on retail goods given the evidence in Table 2), the impact on retail sales would exceed $128 million in both years, most of it likely spent at Missouri retail outlets. Besides consumers themselves being directly affected by the decline in access to consumer credit, these retail outlets would also feel a direct impact through lost sales. There would also be an impact on state revenues.

Sales tax rates in Missouri vary by county and city, but the state rate is 4.225 percent. (In most jurisdictions an added local component brings this total to more than 6 percent and to more than 8 percent in some major sales locales.) Focusing only on the state component, a loss of retail sales conservatively estimated at over $128 million annually would mean a loss of state sales tax revenue of $5.44 million in each year (Table 3, line 1).

There would also be lost salary income in the state as lending office personnel at 510 lenders receive dismissal notices. Again, it is only possible to estimate this impact crudely, but the loss would be substantial. For instance, available evidence from 510 lenders suggests that employee salaries exceed 20 percent of Total Operating Income, *excluding* salaries of officers, owners, and partners. Applying this percentage to Total Operating Income of the industry as a whole of more than $200 million annually (Table 1) suggests salary losses statewide exceeding $40 million at an annual rate, exclusive of officers, owners, and partners.

The loss of these salaries statewide impacts state revenues in three ways: 1) loss of state income taxes on these salaries; 2) loss of state sales taxes foregone to the extent that loss of this income causes family "belt tightening" by not undertaking retail purchases;

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net earnings rose sharply (line 51), state income taxes were off only a little (line 49a), and the number of loans made rose substantially (line 70a). Thus, it seems unreasonable that the amount of loans made declined 36 percent (line 70b). Lacking any better way to estimate loans made in 2010, I assumed they remained at the same level as in 2009 ($858 million), likely an underestimate.

and 3) increase in state unemployment compensation expenditures. Again, exact estimates of impacts of such salary losses are not possible but crude estimates of orders of magnitude of impact certainly are feasible.

Assume that salary impact immediately after the demise of 510 lending is $40 million at an annual rate (20 percent of $200 million of Total Operating Income; the percentage likely is higher and Total Operating Income from the state figures definitely is higher, see Table 1, line 28). Assume also that those laid off in the industry are able to replace half of the lost income in the first year through obtaining new employment somewhere. This reduces the overall salary loss rate to $20 million. At the 6 percent marginal tax rate in Missouri on marginal personal income over $9000, this still means a loss of state income tax revenue of $1.2 million in the first year (Table 3, line 2).

If all or most of this $20 million of personal income foregone otherwise would have been expended on retail purchases, state loss of sales taxes would be approximately an additional $0.845 million in the first year at the 4.225 percent state sales tax rate (Table 3, line 3).

There also would be a state fiscal impact from any payment of unemployment compensation. Again it is difficult to estimate the amount of this impact, but it could be substantial. Professor Joseph Haslag of the University of Missouri estimates that state unemployment claims for displaced workers in the payday and title lending businesses following implementation of a 36 percent lending rate ceiling would be $317.60 per displaced worker for 9.5 weeks (see Missouri State Auditor 2011, [unnumbered] page 11). Applying the same dollar amounts and number of weeks to 2200 displacements in the 510 lending industry produces state unemployment compensation fiscal impact of $6.6 million (Table 3, line 4).[3]

Further, there would be state loss of business income taxes formerly paid by 510 lenders now out of business. Figures provided by the Division of Finance show this amount to have been near $0.5 million in both 2009 and 2010 (Table 1, line 49a). Averaging the two years, loss of state revenue annually from this source would be $0.504 million (Table 3, line 5).

Taking these fiscal impacts together, expected impact of a 36 percent rate ceiling on small installment loans likely will be at least $14 million in the first year and about $6 million in the second year. This amount consists of at least $5.44 million in lost sales tax revenue, at least $1.2 million in lost personal income tax revenue, at

[3]Employment of 2200 is an estimate obtained through conversations with lenders. Compared to the 664 licenses in the state in 2010, this is 3.3 employees per office, a reasonable estimate.

least $0.845 million for sales taxes not received due to lower retail purchases by employees who lost their jobs, at least $6.6 million for unemployment compensation, and 0.5 million due to loss of business income tax revenues. These estimates of various state fiscal impacts do not include any multiplier effects whereby lost retail sales lead to reductions in manufacturing, retail and manufacturing employment, etc. that would cause further losses of state revenues, although these effects surely would be present.

State fiscal impacts from decline of the 510 lending industry would, in turn, have to be added to the corresponding impacts of the proposed 36 percent ceiling also on the pawn, payday lending, and title loan industries. Impacts on state fiscal matters likely are substantial in each of these areas as well. Professor Joseph Haslag of the University of Missouri has estimated state fiscal impact arising from impact of the proposed 36 percent rate ceiling on the payday and title loan industries. I do not know Professor Haslag and have not spoken with him, but he is a local researcher who is well published in respected academic journals. There is no reason to doubt the reasonableness of his estimates. He has concluded that state fiscal impact arising from effect of the proposed rate ceiling on the payday and title loan industries at $13.65 million in the first year and $3.6 million in the second year (see Missouri State Auditor's Office 2011, Appendix B Table, [unnumbered] p. 13). Adding these amounts to the estimate on 510 lenders provides a total of $28.23 million in the first year and additional amounts in later years, plus multiplier effects that are difficult to estimate. To this total, an estimate for state fiscal impact due to changes in the pawn industry should also be added.

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Table 1. Information on Missouri "510" Lenders Provided by Missouri Division of Finance

	Category	2009 Aggregate Total	2010 Aggregate Total
Line 12	Total Assets	910,795,641.03	906,046,010.40
Line 28	Total Operating Income	200,211,136.87	228,141,197.56
Line 50	Total Expenses	186,468,326.68	191,647,036.43
Line 51	Net Earnings	5,093,973.74	36,422,501.09
Line 49(a)	State Income Taxes	540,299.77	468,354.00
Line 70a	Loan Totals - Number	770,384	861,718
Line 70b	Loan Totals - Dollar Amount	1,145,072,221.34	737,212,678.35

Table 2. Consumer Installment Credit by Purpose of Credit Use, 1951-2007

Type of Credit	1951[a]	1956[b]	1963[b]	1970[c]	1977	1983	1989	1995	2001	2004	2007
	Proportions of households using consumer installment credit (percent)										
Closed end Installment Credit											
Automobiles	26	21	26	29	34	28	33	31	34	35	34
Nonauto durables		30	22		14	10	9	7	5	3	5
Home improvement	3	6	6		6	5	3	2	1	1	1
Education					2	2	5	12	11	13	15
Mobile homes					2	2	2	2	2	2	2
Other	7	7	25	37	12	7	7	6	4	4	5
Any Closed end Installment	32	45	50	49	49	41	44	45	44	46	46
Revolving Credit Account with Balance				22	34	37	40	47	44	46	46
Closed end or Revolving Installment Credit	32	45	50	54	59	58	59	64	62	64	65
	Shares of outstanding balances on consumer installment credit, by purpose (percent of total)										
Closed end Installment Credit											
Automobiles	67	60	57	53	60	47	55	43	45	41	35
Nonauto durables		23	13		5	6	7	4	3	3	5
Home improvement	8	8	7		6	8	3	3	1	1	1
Education					1	3	5	16	19	21	25
Mobile homes					8	9	5	6	7	6	5
Other	25	9	23	42	9	5	5	3	2	6	3
Revolving Credit Account with Balance				6	11	23	20	26	23	22	27
Closed end or Revolving Installment Credit	100	100	100	100	100	100	100	100	100	100	100

Source: Data from the Surveys of Consumer Finances. Note: 2010 survey results will become available in mid 2012.

[a]In 1951: category "automobiles" also includes nonauto durable goods; category "other" also includes education and mobile homes.

[b]In 1956 and 1963, category "other" also includes education and mobile homes.

[c]In 1970, category "other" also includes nonauto durable goods, home improvements, education, and mobile homes.

Table 3. Estimates of Annual State Fiscal Impacts of Loss of 510 Lending
(Millions of Dollars)

	First Year	Second Year
1. Estimated state sales tax lost due to retail sales not made on loans not made[1]	5.44	5.44
2. Estimated state personal income taxes lost due to lost income of former employees[2]	1.2	
3. Estimated state sales tax lost due to "belt tightening" by former employees[3]	.845	
4. Estimated state unemployment compensation[4]	6.6	
5. Estimated state business income tax lost[5]	.504	.504
Total	14.589	5.944
Memo item: Professor Joseph Haslag of the University of Missouri has estimated additional fiscal impacts due to loss of other kinds of lending in the state[6]	13.65	3.6

Notes to table:

1. Estimated as lost retail sales of 15 percent of loans not made of $858 annually times state sales tax percent of 4.225 percent (see text).

2. Estimated as half of salary loss rate of 20 percent of total operating expense of $200 million (Table 1, line 28) times state marginal income tax rate of 6 percent (see text).

3. Estimated as retail purchases foregone due to income loss by former employees times the state retail sales tax rate (see text).

4. Estimated using number of employees in 510 lending industry and estimated rates of unemployment compensation derived by Prof. Joseph Halslag and provided to the state for other kinds of lenders (see text).

5. Estimated as the average of lender state income taxes in 2009 and 2010 provided to the Division of Finance (Table 1, line 49a, see text).

6. "Payday" lending and automobile title lending. See Missouri State Auditor's Office 2011 [unnumbered] p. 13 and text herein.

Estimates of Annual Local Fiscal Impacts of Loss of 510 Lending

First, there would be state sales tax lost due to retail sales not made on loans not made. Continuing with Durkin's estimate of a loss of over $128 million annually (App. A., p. 9), and an average local tax rate of 3.45%,[1] the loss of local sales tax revenue would be $4.44 million in each year.[2]

In addition, the lost salary impact would affect certain local entities' revenues generated by the collection of local income taxes (or "earnings taxes"). Using Durkin's estimate of the statewide salary loss of $20 million (App. A, pp. 9-10), one can estimate that $2.559 million of this salary loss is either in Kansas City or St. Louis.[3] St. Louis and Kansas City collect a 1% earnings tax on salaries, which equates to approximately $25,996 in lost earnings tax revenue.[4]

Local funds would also be affected by the lost local sales tax as a result of "belt tightening" by former employees. The Durkin Report estimates that statewide, approximately $20 million would have been expended on retail purchases (App. A, p. 10). At an average local tax rate of 3.45%, the loss of local sales tax revenue due to "belt tightening" would be $690,000.

Finally, local jurisdictions also receive licensing fee income from each of the entities. According to the Haslag 2014 Analysis, the City of Springfield would lose $4,150 a year, i.e., $50 for each of the 83 payday loan stores. Assuming, conservatively, that business license fees are, on average, $50 per year, local funds would be impacted in the amount of $50 x 664 businesses = $33,200.[5] This information is summarized in the chart on the following page.

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[1] See the Tax Foundation, Table 1: State and Local General Sales Tax Rates as of July 1, 2011, available at http://taxfoundation.org/article/ranking-state-and-local-sales-taxes-1.

[2] The Office of the Auditor has previously agreed that the loss of local government sales tax revenue was likely and that loss was not included in the Fiscal Note for Initiative Petition 2012-066. App. C., 69:2-10. This was also confirmed by Haslag at trial. App. C., 153:1-11.

[3] In 2011, the population of St. Louis and Kansas City as a percentage of total state population is 12.998% according to the U.S. Census Bureau. See United States Census Bureau, http://quickfacts.census.gov/qfd/states/29000.html. However, this estimate is likely to underestimate the actual fiscal impact, because the earnings tax is collected from all city residents and all non-city residents who work within the city limits. The population subject to an earnings tax would be in excess of this 12.998% population figure. An alternative calculation would be to use the percentage of entities located in Kansas City and St. Louis as a fraction of total entities statewide. The estimate for that percentage is 13.279%, or $26,558 in lost earnings tax revenue. The more conservative percentage was chosen for this analysis.

[4] The Office of the Auditor has previously agreed that the Fiscal Note for Initiative Petition 2012-066 contained no fiscal impact of the loss of earnings tax revenue. App. C., 53:20-54:5.

[5] The Office of the Auditor previously agreed that lost state license fee revenue was appropriate to include in the fiscal impact of the measure. App. C., 38:12-14. The Office of the Auditor also suggested that there could be lost business license revenue for local jurisdictions due to business closures. App. C., 52:6-9.

and that -- if it's not verbatim, it's a very close paraphrase to what they told you. Right?
A. Correct.
Q. And including -- there's nothing in the law that you're aware of that would require you to include their responses verbatim in the fiscal note?
A. There's nothing that tells us how to prepare the fiscal note.
Q. So it's just the State Auditor's policy to include those statements verbatim in there?
A. Correct.
Q. And you don't know why that is, do you?
A. I didn't start the process so, no, I don't know why that is.
Q. But that's been the policy of the Auditor's Office for as long as you have been doing it, to include the responses verbatim?
A. Yes.
Q. And you include the responses verbatim no matter whether they are inconsistent with each other. Correct?
A. No matter what the response, I'm going to include it.
Q. No matter what they say, you're going to include it. Right?
A. Correct.

Q. If they say, This proposal will cause cats and dogs to sleep together, it goes in the fiscal note?
A. If that's what they say, it will go in there, yes.
Q. All right. A little Ghostbusters reference there. All right.
So staying on the fiscal note then, this particular note, Joint Exhibit 3, let's talk about what did end up getting included in Joint Exhibit 3. So under assumptions here -- well, let me ask you this: Whose assumptions are those?
A. The assumptions of the responders.
Q. So those are not the Auditor's assumptions?
A. Correct.
Q. So I'm going to skip through here. I notice that officials from the Department of Insurance, Financial Institutions and Professional Registration indicate they anticipate no cost or savings to the department. I probably need to zoom in on that a little bit for you, don't I? Is that their response?
A. Indirectly they talked about there would be a potential reduction in revenue coming in, but they anticipated they would offset that against expenses being cut.
Q. And I apologize. I stopped reading too soon.

So the response that's in Joint Exhibit 3 is, again, essentially a verbatim recitation of what they say?
A. Correct.
Q. And you believe that to be a reasonable response. Right?
A. I didn't see it as unreasonable.
Q. Well, so it was not unreasonable. Is it reasonable?
A. Conceivably.
Q. Okay. And then going on a little bit, the Office of Administration -- and what is the Office of Administration?
A. I'm not sure what you're asking.
Q. Well, is it -- however many years you have been at the Auditor's Office, do you have an understanding of what the State Office of Administration is?
A. Basically they are the administrator for the State of Missouri. They are going to look at things that cross over multiple agencies.
Q. Okay. So they included a response here, Secretary of State's office, State Public Defender's Office. And then down here we have a group, Greene County, City of St. Joseph, Hannibal, Rockwood, Linn State Technical College. Do you have a way you can characterize those together for us? What are those?

A. Local governments.
Q. Local governmental entities. Including on the next page, Metropolitan Community College. Correct?
A. Right.
Q. What we just talked about now are the responds from state entities and local entities; is that fair?
A. Correct.
Q. And then, next on Joint Exhibit 3 you have the analysis -- or I'm sorry. Just says, Joseph H. Haslag, Ph.D. provided information as an opponent of this initiative petition; is that correct?
A. Correct.
Q. And you included Dr. Haslag's analysis again, essentially, verbatim; is that right?
A. Correct.
Q. An did you find Dr. Haslag's information to be -- or analysis -- I'm sorry -- to be reasonable?
A. I didn't find it unreasonable.
Q. Okay. Did you find Dr. Haslag's analysis to be accurate?
A. Yes.
Q. Did you find the facts that he conveyed to be relevant to the analysis of the fiscal impact?
A. Yes.
Q. Did it appear to point to a likely result of the

A. I don't believe they are inconsistent.
Q. All right. So let me ask you just for a minute, then, back to Dr. Haslag's chart -- I'm sorry. Not his chart. Dr. Haslag include an analysis of the impact on local entities. Correct?
A. Yes.
Q. And you included Dr. Haslag's analysis in the fiscal note verbatim?
A. Yes.
Q. And that's what we're looking at here on the Joint Exhibit. Right? Local fiscal impact?
A. Correct.
Q. And so Dr. Haslag indicated that there would be a cost or savings to local governments. Correct?
A. He did.
Q. But elsewhere in your fiscal note, the local governments indicate there will be no fiscal impact. Correct?
A. Correct.
Q. And where do you tell people reading the fiscal note -- you agree they are in conflict, don't you?
A. Somewhat.
Q. How are they consistent when Dr. Haslag said there's a fiscal impact and the local entity is saying no impact?

A. Well, the difference in the two is that Mr. Haslag's information is based on the conclusion that he's drawing that eventually the payday loan lenders will close, which will cause the impact that he's talking about. The governments that responded to us weren't assuming that the businesses would close when they did their response.
Q. You believe that it is a correct assumption that the businesses would close, don't you?
A. From the analysis I did based on looking at the other states that Mr. Haslag cited, it would seem logical, yes, that within a few years most of the payday loan lenders would close, if not all of them.
Q. In fact, we're going to get into this in a minute, but in preparing the fiscal note summary, you assume that the businesses would close?
A. Based on that analysis, yes. I think the industry would close or be reduced substantially.
Q. So was it unreasonable, then, of the local governments to fail to assume the businesses would close?
A. No.
Q. Okay. Was it unreasonable of Dr. Haslag to assume they would close?
A. No.
Q. So one says they won't close, the other says they will close, they both are perfectly reasonable?

A. They are using different assumptions.
Q. And, again, you think Dr. Haslag is the correct one?
A. I think based upon what's occurred in other states that have adopted similar legislation, that would be correct.
Q. And I apologize if I already asked this. So in this fiscal note that we're looking at, which we agree is everything above the summary, where do you explain to a reader of the fiscal note how to reconcile the statements here from local entities saying no impact and the statements elsewhere in your fiscal note saying there isn't an impact?
A. Basically the summary is the fiscal note summary. There is no bridge between the note and the summary.
Q. So the summary does not summarize the note then. Right?
A. The summary does summarize the note.
Q. When you have part of the note that says no impact to local government and the other part that says there is an impact to local government, how did you summarize those two different conclusions in this case?
A. I'm not sure what you're asking.
Q. We'll get to the summary in just a minute. All

right? So let me ask you then about the summary for just a minute. Well, it will be more than a minute.
A. Can I hold you to that minute?
Q. No, but the Judge could.
So you prepared a fiscal note summary, which is the Auditor's opinion of the fiscal impact; is that right?
A. This is our fiscal note based upon the information that was provided to us, yes.
Q. So this is what the Auditor thinks the fiscal impact will be?
A. Yes.
Q. All right. Got it. And the numbers in here just the -- I see a 2.5 to $3.5 million number. You got that from Dr. Haslag. Correct?
A. Those numbers came from his analysis, yes.
Q. Well, we'll come back to that. So is it fair to say that you relied heavily on Dr. Haslag's analysis in reaching the conclusions about fiscal impact on behalf of the State Auditor?
A. Yes.
Q. And the Court can read Dr. Haslag's analysis in there, but let's make sure we are on the same page about how Dr. Haslag's analysis goes. In order to reach these numbers that we looked at in the table, you have to assume that businesses are going to close. Right?

A. Yes.
Q. And in order to assume that businesses that are currently operating are going to close, you have to assume there's going to be some new law. Right?
A. I'm not sure what you're asking.
Q. Well, they are open today and your assumption is they are going to close if this passes. Correct?
A. Correct.
Q. So you will have to make an assumption that whatever this thing is that's passing is going to have an impact on those businesses. Right?
A. Yes.
Q. And it could have been a new impact that did not occur before the initiative was adopted?
A. Yes.
Q. And as part of his analysis, you have to assume that it's the 36 percent cap on interest rates that's going to cause those businesses to go out of business. Correct?
A. The cap would impact the profitability of the businesses.
Q. Which -- right. Which would then, in turn, under his analysis, cause him to go out of business?
A. Or make the determination that they can't be profitable enough so they would choose to close.
Q. Fair enough. So you read his analysis and

you're familiar with it?
A. Yes.
Q. And so what he's saying is it's that 36 percent number that's going to cause them to go out of business. Right?
A. He's saying the cap would cause it -- you know, it could -- a different rate could potentially cause a different result.
Q. Right. So a different rate might not -- like, if you said we're going to cap it at 1,000 percent, might not cause them to go out of business?
A. Probably not.
Q. So the two crucial elements of his analysis which you adopted are: This will be a new law. Right?
A. Yes.
Q. And it will be 36 percent cap. Right?
A. I don't know that I would necessarily agree with that. I mean, what his analysis was basically showing is that the profitability of the business would change. And based on that, he assumed that the businesses would either decide to close or eventually possibly go bankrupt.
Q. Well, I guess here's what I'm simply getting at: In order to reach the Auditor's conclusion about fiscal impact, the 2.5 to 3.5 on state government, the two critical assumptions were a new law and a 36 percent cap.

Correct?
A. I would say the critical assumptions are a new law and that businesses would close.
Q. Okay. And just -- I don't want to beat this totally into the ground, but we agree that, based on the analysis that you read from Haslag, businesses -- there's a certain price point in which the businesses would close?
A. Yes.
Q. And 36 percent is below that price point?
A. I believe so.
Q. All right. Now, on Dr. Haslag's analysis, now we talked about assumptions. A couple more assumptions I just want to cover with you to make sure we're clear on as we go through this case.
First of all, he only assumed in Table A that payday lending stores would close. Correct?
A. Right.
Q. And in Table B, he only assumed that payday lending stores and title loan stores would close. Right?
A. Correct.
Q. And you agree, I think, as discussed in the Division of Finance's analysis, that there are other lenders other than payday lenders and title lenders, known as 510 lenders in this analysis. Right?
A. Yes.

Q. Dr. Haslag's analysis did not attempt to analyze the fiscal impact if the 510 lenders -- if half of the 510 lenders were to close as predicted by Division of Finance. Right?
A. Didn't look like it.
Q. And you didn't do any independent analysis to address the Division of Finance's comment that half of the 510 lenders would close?
A. No.
Q. Dr. Haslag's analysis -- let me ask you about this: So here's your summary statement. That is the Auditor's analysis. Right? So state government entities could have an annual lost revenue estimated at 2.5 to $3.5 million why did you not give us a time frame for when the 2.5 to $3.5 million would occur?
A. I'm not sure what you're asking.
Q. Yeah, I didn't ask it very well. So they're going to have a 2.5 to $3.5 million loss per month?
A. It says annual. Annual lost.
Q. Annual lost revenue for how many years? Forever?
A. Conceivably. It just depends upon the ability to rehab the economy from whatever changes are going to occur from the close of business.
Q. Okay. And why don't you put in an annual lost

revenue?
A. I'm not sure what you're asking.
Q. Is there some directive that you're aware of, either in the law or the regulations and policies of the Auditor's Office, that tell you to estimate the lost revenues annually?
A. Again, I'm not sure what you're asking.
Q. Okay. So if -- well, use our real live example. So Dr. Haslag -- I don't have a really good foundation on this yet, so I don't know if it will make sense. Dr. Haslag says you're going to use revenues for two years in his analysis. So did you include the losses for two years combined?
A. No. Each year is independent.
Q. So you only included one year?
A. Right.
Q. And I guess what I'm saying is, why? Why didn't you combine the two years together since your fiscal note says there's going to be losses for two straight years?
A. I'm not sure, one, that that would be -- that the voter would understand that. And we're talking annual so, again, we're talking each individual year.
Q. Well, I know you are. I know you are talking each individual year. I'm trying to understand why. So that's what I'm asking you. Is there some guidance out

there as to why you said it will be annual losses versus over two years it will be combine the two together?
A. I guess all I can say is, I haven't seen any fiscal notes that did that, so that's not the approach that I took.
Q. Okay. Any other reason?
A. No.
Q. All right. So comparing the two then, you got the 2.5 to $3.5 million out of Dr. Haslag's numbers. Correct?
A. Right.
Q. Where did you get that?
A. It's coming from the lost license fees and the lost general revenue, 2 and 4.
Q. Okay. So you took two lost general revenue to Missouri at $2.17 million and you, what, added that to four?
A. Right.
Q. Of two point -- or I'm sorry -- of $.32 million and that's how you get which number of your 2.5 to 3.5, that's the 2.5?
A. The low level.
Q. Okay. And then where do you get the 3.5? Is that down here or something?
A. Again, 2 and 4, the 3.1 -- 3.01 and the 3.59.

Q. So you took the 3.01 from year two?
A. Well, the 2.98. 2.98 and .59.
Q. So you used the year one numbers from these two tables?
A. Essentially. Essentially, they are the same. I mean, there's a small difference between the two.
Q. Okay. So your fiscal note -- so your fiscal note here which you included says, This is a summary of cost to the State of Missouri. Right?
A. Right.
Q. And you included that in the note. And so one of the costs to the State of Missouri is $57 million in gross domestic product. Correct?
A. Essentially, I mean, that's not a direct cost. It's an economic cost.
Q. Then you've got lost net revenues as a cost of 2.17 million?
A. Right. And that was computed based upon the gross dometic (sic) product -- gross dometic product.
Q. Domestic product.
A. Correct. I can't get that out.
Q. That's all right. I'm here to help.
So you did not include the 57 million in costs in your summary statement?
A. Correct.

Q. Why not?
A. Again, it's not a direct cost. That means the GDP change is going to affect general revenue, but it's not going to be a direct cost.
Q. Okay. And you believe there's something somewhere that tells you only to include direct costs or not?
A. I think direct costs would be what needed to be reported. Otherwise, it would get quite confusing to have indirect and direct costs incorporated into the fiscal note summary.
Q. And is your thought on that, that you should not include a direct cost, is that based on anything other than your personal opinion on it?
A. No.
Q. And then so you did include No. 2, lost net general revenues. Did you include unemployment insurance benefits paid?
A. No.
Q. We're going to come back to that one. You included lost license fees?
A. Yes.
Q. So that's that column and it adds to 10.53, so obviously you get different math if you take some out?
A. Yes.

document. Right?
A. Yes.
Q. All right. Let me ask you about then -- I think we've got that covered. Let me ask you about this number right here (indicating). Dr. Haslag indicates in his analysis that the cost of this initiative petition would be $8.04 million in unemployment insurance benefits. Correct?
A. Right.
Q. And your fiscal note that the Auditor puts out includes this statement that the unemployment costs will be $8.04 million. Right?
A. Right.
Q. And in your fiscal note summary, you did not include anything about the $8 million in unemployment benefits?
A. Correct.
Q. And you believe that Dr. Haslag's prediction that there will be $8 million in unemployment insurance benefits paid because of this measure, you believe that is a reasonable assumption?
A. Yes.
Q. You believe that is a correct analysis?
A. Yes.
Q. You don't have any disagreement with his prediction that there will be $8 million in unemployment

benefits paid?
A. I think his analysis indicated that that was a reasonable number.
Q. All right. And you did not include it in your summary because you believe it is not a cost to state government. Right?
A. Correct.
Q. But you agree that unemployment insurance is a fund of the Department of Labor?
A. It's an enterprise fund.
Q. Of the Department of Labor?
A. Yes.
Q. And you didn't include it, you said, because it didn't -- it was not part of the operating cost of state government. Right?
A. It's not a part of the governmental funds, correct.
Q. So in preparing the fiscal impact, you believe you're limited to only governmental funds?
A. No. The reason I didn't include it was I didn't look that it was going to be a cost, because essentially the way the unemployment fund works, if a business is going -- if there's going to be cost related to unemployment to a particular business, that business's rates are going to go up. And so, essentially, it's going

to be a net effect of zero over time.
Q. Okay. So the unemployment -- you're not telling the Court that the unemployment insurance fund is always fully funded?
A. No. What I'm saying is that if costs -- if the expenses are going out and it's related to unemployment of a particular business, that business's rate is going to change and they will be paying a higher rate in the future which will make up for the money that's come out of the fund.
Q. Now, you've audited the Department of Labor yourself, haven't you?
A. Years ago.
Q. And you're generally familiar with how the unemployment insurance fund works. Right?
A. Yes.
Q. And there's an unemployment insurance tax that's set by the Legislature. Correct?
A. The fee -- the rate that's paid varies by company based upon the amount of activity that they have going through the unemployment insurance fund.
Q. And you're aware, based on your experience at the Auditor's Office, that there have been times when the unemployment insurance fund was actually insolvent. Correct?

A. I think there have been circumstances to that effect.
Q. And there were times, in fact, when the Auditor reported that the unemployment insurance fund had to borrow from the federal government. Correct?
A. Correct.
Q. And that the State has to pay the federal government back in interest rate on that. Correct?
A. That does have to happen, yes.
Q. And that's because revenues are not sufficient to meet benefits. Right?
A. Over time that there could be a situation like that, yes.
Q. So if more benefits go out of the fund than come into the fund, that's a cost to the State under your definition. Right?
A. Again, over time it's going to net out for the individual employers that are involved.
Q. I thought we were only dealing with one year in our fiscal analysis?
A. No.
Q. Okay. So you agree that we should be analyzing fiscal impact over more than one year?
A. Correct.
Q. But for Dr. Haslag's analysis of general

Q. He also believed that there would be a loss in general revenues as a result of reduced taxation, correct, or lost taxes?
A. We're talking local or state?
Q. Well, on state, let me just do it this way: The 2.5 to 3.5 million that you agree is a fiscal impact includes lost revenue to the State as a result of foregone revenue collection. Right?
A. Again, it's based upon the analysis that he did based upon the GDP change in terms of what the net impact to the general revenue fund would be.
Q. Right.
A. I mean, it was a somewhat complicated formula that he used. There isn't a direct number that you can go to and say, there's the $2 million.
Q. You have to figure out what GDP is and then you have to apply a tax rate to that to figure out how much that tax rate would generate to the government. Right?
A. Correct.
Q. I mean, it's probably more complicated than that. You know, based on your experience, that there are local governments that have an earnings tax in this state?
A. Yes.
Q. But there's no analysis in either the fiscal note or the fiscal note summary of the impact on earnings

tax. Correct?
A. Correct.
Q. And that's because nobody mentioned that to you. Right?
A. Correct.
MR. HATFIELD: Judge, if I can have one minute, I kind of dropped my papers here.
THE COURT: Take your time.
MR. HATFIELD: I think I'm about ready to wrap. I got my papers out of order, and my associate, Mr. Ellinger, didn't do a very good job of putting them back in order.
MR. ELLINGER: You don't pay me enough.
MR. HATFIELD: I know. Got to work on that.
BY MR. HATFIELD:
Q. So is Exhibit 3, which is a fiscal note and fiscal note summary together, is that an audit?
A. No.
Q. Is there any audit done in connection with initiative petition fiscal impact?
A. No.
Q. You don't follow the auditing standards when doing fiscal note impact analysis. Right?
A. No.
Q. And if it was an audit, you agree Chapter 29 of

the statutes would require you to follow the auditing standards?
A. If it was an audit, we would follow the yellow book in terms of performing the work.
Q. And the yellow book is promulgated by the comptroller or somebody?
A. GAO.
Q. GAO, yeah, government accountability office. Right?
A. (Witness nods head.)
Q. And we talked a little bit at the beginning of this deposition about checking to see if qualified personnel had provided information in the impact. Do you remember that?
A. Right.
Q. If you were doing an audit, that would be one of the things you would do, is to see if they were actually qualified personnel preparing financial statements. Right?
A. Preparing -- well, we wouldn't necessarily be looking at financial statements. We would do internal control work to evaluate.
Q. And the auditing standards talk about that internal control work and includes things like, do you have qualified personnel. Right?
A. Well, you're talking about -- that's also

talking about from the audit side too. I mean, we're talking about the qualified personnel to conduct the audit work itself.
Q. Right. But part of your audit would be to make sure that the processes of the auditee actually produce correct results. Right?
A. We would do internal control work, yes.
Q. All right. And so in preparing the fiscal impact analysis that you did here in Exhibit 3, there is no reviewing of existing accounts. Correct?
A. Again, I don't know what you're asking me there.
Q. Did you review any existing accounts in preparing the fiscal impact analysis?
A. Existing -- again, I'm not sure -- I looked at the CAFRA some. I probably looked at some other material, but I'm not sure what you mean by existing accounts.
Q. All right. Well, I guess I'm asking you, did an analysis of any existing accounts of the State have anything to do with your fiscal analysis here?
A. Well, I guess, again, I would say yes, because I looked at the CAFRA to understand again the unemployment insurance issue so that I could properly reflect that information in the fiscal note and fiscal note summary.
Q. Okay. Did you do anything in the course of your fiscal impact analysis to check the accuracy of any of the

sales tax, a portion?
A. A portion of it would be, yes.
Q. And there would be a corresponding -- perhaps not dollar for dollar, in fact, but there would be a corresponding impact for local government sales tax revenue that was lost. Correct?
A. Likely.
Q. But that's not included in the fiscal note or the fiscal note summary, is it?
A. That would be correct.
Q. Now, I believe you talked a little bit with Mr. Hatfield in looking at the fiscal note summary. And just by reference, is this -- what joint exhibit number is this? I think we're looking off of Joint Exhibit 3, which is the fiscal note of the Auditor that includes the fiscal note summary. Correct?
A. Yes.
Q. And you said that the 2.5 to 3.5 million didn't solely result from the 36 percent rate cap, but from the impact upon businesses going out of business as a result of that 36 percent cap. Correct?
A. Right. Closing or -- either choosing to close or failing.
Q. So the reason the State would lose revenue is because businesses would close in Missouri, whether they

failed or voluntarily closed?
A. Well, again, his analysis went through and analyzed what the GDP impact would be based upon businesses closing.
Q. And you found that analysis to be reasonable?
A. Yes.
Q. But the fiscal note summary doesn't talk about businesses closing, does it?
A. The -- well, yeah, for locals we have business closure.
Q. Okay. The state side doesn't talk about anything business closures, does it?
A. I don't believe I indicated that specifically.
Q. So if you're a voter reading it, you don't know the reason state revenues being reduced is from business closure or whether maybe somehow this measure lowers taxes. Right?
A. Well, I think some of that's going to come from what's in question would be the ballot language, and some of it would also come from the fiscal note itself, if the person read the fiscal note.
Q. But on the ballot you go to sign a petition, the actual petition, it's attached to your fiscal note?
A. Right.
Q. The only thing that's attached to the petition

is the official ballot title. Correct?
A. Correct.
Q. And that's the summary statement that the Secretary of State does?
A. Right.
Q. And the fiscal note summary that you do?
A. Right.
Q. So there is no reference to the impact on state government being as a result of business closures on the petition itself?
A. No.
Q. And since there's no reference to unemployment claims in your fiscal note, there's no reference to job losses that would occur either, are there?
A. No.
Q. So a person reading this fiscal note summary and trying to figure out the state impact, would have no idea that people are going to lose their jobs if this measure goes forward. Right?
A. They wouldn't know it directly, no.
MR. ELLINGER: Speaking of unemployment, I think, Judge, I won't belabor the point in light of previous comments but just a couple of real quick questions.
BY MR. ELLINGER:

Q. You mentioned that to a certain extent you thought unemployment insurance was kind of a wash out on the long term because -- and I think you said the State would simply charge higher rates into the future to those businesses to make up for the payments that went out?
A. Essentially, the rate that they pay into the fund would change.
Q. But if a business goes out of business, they are not going to pay a higher rate in the future, are they?
A. Conceivably, that would be true.
Q. If they go out of business they're not going to pay anything in the future, will they?
A. Again, there may be provisions -- there are provisions built into the law probably related to that. I'm not specifically familiar with that detail.
Q. Somebody's going to have to make up that lost money. Right?
A. The -- essentially, the fund would be made whole in another manner.
Q. And that could be by the state government paying that?
A. I don't believe that would be true.
Q. Could be, though, couldn't it?
A. The -- ultimately the rate that businesses would pay would be modified to that extent. In terms of the

out to me. One, was the -- could be tied to the first sentence. The state governmental entities could have annual lost revenue estimated at 2.5 to $3.5 million partially offset by expenditure reduction for monitoring industry compliance. That -- so again, the translation of the math that was reported in -- if you have got Table B?

Q. I do.

A. If you can put that up. The translation of the results that were incorporated into the fiscal note, Table B, say that lost net general revenue is 2.98 million or roughly $3 million a year. The lost license fees, I believe that that corresponds, as I understand it, that corresponds to the partial offset of the expenditure reductions for monitoring industry compliance. So if that was a wash, for example, then you would know exactly what the number was. It was 3 million, not range of 2.5 million to 3.5 million. This was one source of inadequacy.

Q. So let's walk back through that and let's take a look at the fiscal note summary itself. I need to zoom out. And then let's compare it to Table B.

A. Yes.

Q. Okay. In the fiscal note summary you have been pointing us to the very first sentence that mentions, annual lost revenue could be estimated at 2.5 to

3.5 million. So we're starting there, and then you're looking at this phrase that could be partially offset by expenditure reductions for monitoring industry compliance. That's the part we're talking about right now?

A. Correct.

Q. And your testimony is that we really can't be deducting anything off if -- if our starting number is 2.5, we can't be deducting anything off of that because we're already -- we're already -- the lowest we can go is 3 million even if we deduct?

A. Yeah.

Q. Did I get that right?

A. Correct.

Q. And how again do you get to 3 million? What are you adding up on Table B?

A. So Table B -- yeah. So if Table B is not adding anything up, I'm taking the $78.46 million in the year one column of lost gross domestic product by the state, and multiplying that by 3.8 percent, that long-run average of what the net general revenue is per dollar of gross domestic product.

Q. So in other words, if we look at row 2, add to it row 4, we are at 3.6 million. But then if we take out row 4, even if we assume that's all offset, we're still at 3 million?

A. Correct.

Q. So it can't be that we start at 2.5 and deduct off of that?

A. Correct.

Q. Okay. So that was the first point. You mentioned you had two others. What is the second way in which this is insufficient?

A. The second one is the second sentence, local governmental entities could have unknown total lost revenue related to business license or other business operating fees if the proposal results in business closures. So again, translating those words is an inadequate characterization of the math that was done in the numbers that were reported in the document. We know that it was not going to be less than $122,000, in fact, because just looking at Springfield and Kansas City, that's the amount of lost license fees for those two cities.

Now, could be more because it would have taken more time and I was not asked to look at other cities. But we know it can't be less than 122,000. The point is 122,000 is not an unknown number.

Q. Also I note that the second half of this sentence after the, I guess, compound mound business operating fees, where it says, if the proposal results in business closures. Did you leave any room for doubt in

your report that there would be business closures?

A. I don't believe I left any doubt that there would be business closures.

Q. And in your review of the fiscal note, did you see any responses from anyone that indicated that there would not be business closures?

A. I did not.

Q. So just so we can sum up, your second point here is that there is no if about business closures, and the -- while the total amount of lost revenue would be unknown, we know that it must be at least 122,000?

A. Correct.

Q. And do you believe there's any doubt that we would have at least 122,000?

A. I don't have any doubt in that number, no.

Q. Let me ask you, what's the third way in which the fiscal note summary is insufficient?

A. I think the unemployment insurance benefits, the way that that was handled, I think, is insufficient. The funding mechanism will change in response to underfunded unemployment insurance claims.

Q. What do you mean by that?

A. What I means is that eventually there would be an additional higher rate applied to the existing businesses to replenish the fund. Now, in my view that's

no different than saying that when the state loses general revenue, that they can't eventually raise taxes in order to raise that general revenue amount. So in moreover, conditioned on the current state of the economy when this -- when we are taking about this ballot initiative passing, they are going to have to be revenues that are paid by some entity in the state because we're so far in arrears owing the federal government for loans that were made to make current unemployment insurance claims whole.

Q. And if those payments had to be made, would that, in turn, have a fiscal impact?

A. It would have a fiscal impact dollar for dollar. There's also the other thing which I think would be an adequate assessment of this, which is, even if the funding mechanism caught up and somehow other businesses were now being taxed to make unemployment insurance claims for the business closures that occurred, those businesses are going to see a reduction in their profits and there's also going to be a fiscal impact that goes along with that.

Q. Dr. Haslag, we just went through one point with the fiscal note and three points with the fiscal note summary, each one of which I think you testified was sufficient or was a reason that the fiscal note and fiscal note summary was insufficient. Did we leave anything out? Do you have any other opinions on sufficiency?

A. No.

Q. And just so we're clear, how long, again, did it take you to do your analysis on the sufficiency of the fiscal note?

A. On the fiscal note, it was about 15 or 20 minutes.

Q. And how long on the fiscal note summary?

A. On the fiscal note summary for all three issues combined -- well, the unemployment insurance benefits probably took about 20 minutes to contact the Department of Labor, State Department of Labor. And then the assessment of the adequacy of the language translating the numbers and the mathematics that were done in the report, 10 or 15 minutes is all.

Q. And all the sources that you contacted, are you confident that those are the sort of sources that an economist in your position would reasonably rely upon to determine the fiscal impact on the change in statute?

A. Yes.

MR. GREIM: No further questions.

THE COURT: Mr. Ellinger?

MR. ELLINGER: Just a few questions.

CROSS-EXAMINATION BY MR. ELLINGER:

Q. Good afternoon, Dr. Haslag.

A. Good afternoon.

Q. Couple of preliminary questions real quick. Did you review the initiative petition in the course of preparing your fiscal note analysis?

A. I did read it over, yes.

Q. Your analysis that you submitted doesn't include 510 lender impact, does it?

A. That's correct.

Q. The fiscal note itself does not include 510 lender impact, does it?

A. No, it doesn't.

Q. And the fiscal note summary does not include 510 lender impact, does it?

A. No, it doesn't.

Q. But there is going to be impact to 510 lenders if this measure were to pass. Correct?

A. Honestly, I didn't study that group, so I can't say definitively that I know what the answer is.

Q. If you look at the Attachment A to your submission --

A. Can you give me --

Q. That's the e-mail from --

A. Yes.

Q. It talks about half of the 510 lenders go out of business?

A. Yes.

Q. Okay. If you included fiscal impact from those half of the 510 lenders that would go out of business, that would increase the negative fiscal impact to the State, wouldn't it?

A. It would.

Q. And similarly, if you were to include those 510 lenders that would go out of business, that would increase the negative fiscal impact to local governmental entities, too. Correct?

A. Yes.

Q. When you were making your calculation of net -- of state net general revenue -- I believe that was the term you used, wasn't it?

A. Yes.

Q. That includes sales taxes that are collected and remitted for state purposes. Right?

A. It does.

Q. But your analysis doesn't include local sales taxes that would be collected for local governments, does it?

A. No, it doesn't.

Q. If you were to include those local sales taxes, the negative impact upon local governments would increase, wouldn't it?

A. It would.

Q. If you were to include 510 lenders and the local government impact of those lost sale taxes on 510 lenders, it would further increase the negative impact to local governmental entities, wouldn't it?
A. It would.
Q. But none of that was included in the fiscal note, was it?
A. No.
Q. And none of it was included in the fiscal note summary?
A. No.
Q. Since the fiscal note and fiscal note summary don't include any information about 510 lenders, except for the e-mail saying that half of them would go out of business, do you believe that that's a further basis for the fiscal note and fiscal note summary being insufficient?
A. I think that those are questions that should be addressed and should be analyzed.
Q. Real quickly, you mentioned that you read the initiative petition?
A. I did.
Q. Do you know if these interest rate restrictions would apply to banks?
A. My understanding is that they would not.
Q. So do you have an opinion as to whether the

initiative petition provisions would apply to credit unions?
A. Like banks, my answer is, I don't believe they would.
Q. So there's no calculation of fiscal impact upon banks or credit unions included in the fiscal note?
A. No.
MR. ELLINGER: No further questions.
THE COURT: Mr. Hatfield?
CROSS-EXAMINATION BY MR. HATFIELD:
Q. Dr. Haslag, in reaching your opinion, I think Mr. Ellinger just asked you, you read the petition?
A. Yes.
Q. And is it fair to say that in reaching the analysis that businesses would close, the rate at which interest would be capped was critical?
A. Yes.
Q. If you don't know what the cap on short-term loans would be, there would be no way to understand the impact of the measure on the businesses?
A. Correct.
MR. HATFIELD: No further questions, Judge.
THE COURT: Mr. Shabsin?
MR. SHABSIN: Nothing on behalf of Reuter, sir.
THE COURT: Mr. Moore?

MR. MOORE: Thank you, your Honor.
CROSS-EXAMINATION BY MR. MOORE:
Q. Dr. Haslag, when you first looked at this, you went into this with an open mind?
A. Yes.
Q. Were you retained by an opponent of the initial petition?
A. I was retained by Mr. Hatfield. I didn't know whether he was an opponent or not. I was not instructed to characterize his opinion. He asked me a question and I brought to bear the expertise to that question.
Q. And you were paid for that research and opinion. Right?
A. Yes.
Q. You used an interesting term when you were testifying on direct. You said you started out with an open mind, but then you decided it would have a deleterious effect.
A. Yes.
Q. So do you believe that's a bad thing if these businesses go out, if the payday industry goes out? Is that a valid judgment?
A. As I understand how this market works, there are no barriers to entry to firms coming in, there are no market failures that are obvious to me, and there seems to

be a group of consumers who were served in this entity. From a purely professional standpoint, I believe this to be bad public policy to put an interest rate ceiling on this market so that these would result in these corporations or these businesses closing.
Q. But this professional opinion reflects a bias on your part that you think this would be bad from a business point of view?
A. No, I disagree with that. What I would say, is that this is my professional opinion of how markets work and my understanding of how the world of -- of how an aggregate economy works. So it's not -- it's different than the way you just worded it. This is 25 or 30 years worth of scientific investigation into how aggregate economies operate.
Q. Well, but economies are dynamic, are they not? I mean, one industry is here one day and it's gone the next?
A. Of course.
Q. Because supposedly we're great capitalists and if one thing doesn't work, we take our money and go do something else? Right?
A. There are no longer blacksmiths, very many blacksmiths, compared to the level of blacksmiths that we had in the late 1800s.

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Business Licenses & Permits

Business License
(Chapter 13, Columbia Code of Ordinances)

A business is defined as "all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this city, or anywhere else within its jurisdiction, as permitted by the statutes of Missouri, and as provided for by the charter of the City". (Section 13-18, Columbia Code of Ordinances)

Any person shall be deemed to be in business or engaged in nonprofit enterprise when he/she does one act of: (a) selling any goods or services; (b) soliciting business or offering goods or services for sale or hire; or acquiring or using any vehicle or any premises in the City for business purposes.

How does a new business apply for a license?

To apply for a Business License, an application must be completed along with the appropriate supplemental forms. These forms are available at the Business License Office, 701 East Broadway, Columbia, MO 65201, by calling 573/874-7378 or download a Business License Application form in Adobe Acrobat (.pdf) format.

Complete the forms and return to the Business License Office along with the proper payment. Your business license will be mailed after payment has been received and all required information has been obtained, and upon application approval by the Business License Administrator. This license must be posted in a conspicuous location at the place of business.

How much are the application fees?

A criminal records check from the applicant's resident state will be obtained by the Business License Office upon the completion of a "Disclosure and Authorization Form " by the applicant. **The investigation fee for a Missouri records check is $13.50**. Please contact the Business License Office to receive fee information for out of state records checks. **The application must be accompanied by a $20.00 application fee as well as the license fee which is based on the annual gross receipts of the business:**

- Annual gross receipts less than $25,000.....$15.00 license fee
- Annual gross receipts between $25,00 and $100,000.....$25.00 license fee
- Annual gross receipts over $100,000.....$0.25 per thousand (multiply the number of thousands by .25 up to a maximum fee of $750.

Example: Your business has gross receipts of $200,000. Multiply 200 by .25 to determine the license fee of $50.00.

Do I need to provide proof of workers compensation insurance?

Proof of Workers' Compensation insurance, in the form of a Certificate of Insurance, must be provided by all construction industry businesses with one (1) or more employees.

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The term of a Business License is July 1 of each year until the 30th of June of the following year. A renewal notice shall be mailed to each licensee on or before June 1 informing him/her that the license shall expire on June 30 of that year unless otherwise renewed. For each month that such license fee remains unpaid, a fee of 15% of the business license fee is assessed.

All businesses must abide by all laws and regulations, including zoning, fire codes and health directives. Failure to comply could result in suspension or revocation of the business license.

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Q. And as we talked about earlier, we didn't consider the 510 lenders here?
A. Correct.
Q. The installment lenders. Now, we referenced several documents that you relied upon here. Are those the same types of items that you would look to as an economist in trying to predict fiscal impacts on policy changes?
A. Certainly the accumulated body of knowledge that existed in the journals and working papers would be the natural source.
Q. And did you note that many of your conclusions, including your charts, Table A and Table B, were actually placed directly into the fiscal note by the Auditor's Office?
A. I am aware of that, yes.
Q. Now, when I asked you to determine the sufficiency of the fiscal note and fiscal note summary, did you rely upon your prior report that we just walked through here?
A. Yes, I did.
Q. Did you rely upon the other submissions and materials and submissions received by the Auditor and shown in the fiscal note itself?
A. Yes, I did.
Q. How long did it take you to form your opinion on

the sufficiency of the fiscal note?
A. It didn't take long. Just less than an hour.
Q. How about on the fiscal note summary, how long did that take you?
A. Even shorter.
Q. Let me ask you now about your opinions in this case, Dr. Haslag. What was your opinion with respect to the sufficiency of the fiscal note, bearing in mind the definition of insufficient that we talked about at the very beginning of your testimony?
MR. MOORE: Objection, your Honor, at this point for two reasons. The primary reason is the issue of whether or not the fiscal note is sufficient and fair is a matter of law for the Court and this witness is not qualified to render that opinion. Secondly, while I recognize he's an economist, well-accomplished to certainly give us the data we have, there's been no foundation laid whatsoever that he has ever prepared a fiscal note or fiscal note summary under the constraints of 116.175.
THE COURT: And on that note, I will see you-all back here a little after one.
(A lunch break was taken.)
THE COURT: Okay. My notes show that Mr. Moore had objected to this witness giving an opinion based on the fact that he was questioned -- or his opinion was without

foundation and also that he would be testifying on something that was in the province of the Court as it is a matter of law.
Did I accurately sum that up, Mr. Moore.
MR. MOORE: Yes, your Honor.
THE COURT: I'm going to overrule those objections and allow the witness to answer the question. I'm sure you're going to have to repeat it.
BY MR. GREIM:
Q. And I will. Dr. Haslag, bearing in mind the earlier definition of insufficient that we referenced, which was inadequate, especially lacking adequate power, capacity or competence, what was your opinion with respect to the sufficiency of the fiscal note?
THE COURT: For the record, I'll note that you made the same objection and it's overruled.
MR. MOORE: Can it just be a continuing objection? I assume he's going to do the same thing for the fiscal note summary, Judge.
THE COURT: Just to make sure the record is clear.
Sorry about that, Mr. Greim. Go ahead.
THE WITNESS: What struck me was the nature of the inadequacy comes in the form of the translation of math and arithmetic and numbers into language.

BY MR. GREIM:
Q. And, Mr. Haslag, was your opinion that the fiscal note was sufficient or insufficient, given the definition I had given you?
A. That it was insufficient.
Q. And what was the reason for the insufficiency of the fiscal note?
A. In the fiscal note, the one that leapt out at me the most would involve the Department of Insurance, Financial Institutions and Professional Regulations. If I can read from the document that I have in front of me, if the adoption of the measure results in a reduction of fee revenue for consumer credit entities, the Department anticipates it would expend a correspondingly smaller amount to regulate these entities. So as I go back --
Q. Dr. Haslag, if I can stop you there, I just want to make sure we can all follow along. In the middle of the page here I've put up a segment from the fiscal note. Is this what you just read to us?
A. It is.
Q. Go ahead now.
A. Now, in the report that I submitted, and I believe that there was some discussion about this, this was an e-mail that was listed from the Division of Finance, they identified a cost of $675,000 per fiscal year. And

then went on to say, we would need to decrease our consumer credit examination of staff by four or five examiners.

So that sets up a really simple kind of assessment of whether -- so will getting rid of four or five examiners cost $675,000? It seems to be a simple math question. And I will tell you I looked at sort of the -- and I picked the highest salary guys, so these are examiners grade 3. Their average salary was $75,000. This was taken from the Missouri blue book, from the official manual.

Q. Let me stop you there, Dr. Haslag, and just kind of work our way back through this. I think sometimes you have more energy after lunch than anybody else probably does here. But I've put up on our overhead here -- I kept the language that you read from the DIFP earlier. And then beneath it I put one of the two e-mails that you attached as Exhibit A to your report, and that then made their way into the Auditor's fiscal note. And so do you recognize that as the second item I slid up onto the screen?

A. I do.

Q. And so you were just telling us about the $675,000 loss in revenue which appears down here towards the bottom of the Division of Finance's internal e-mail?

A. Correct.

Q. And you were telling us that you then looked --

let's go back again. Why did you go and look at the salary of the examiners?

A. Well, to the last statement and the -- and what you show here, they expect a decrease in consumer credit examination staff by four or five examiners. So the natural question is, reworded, will the reduction of say five examiners cost or save the Division of Finance $675,000?

Q. In other words, is this going to be a wash?

A. Correct.

Q. Will getting rid of four or five examiners equal $675,000?

A. Correct. Which is indeed the language that you showed on the previous slide.

Q. And you also heard -- before we go further into this, you heard Mr. Halwes say earlier that he actually believed that the top language from DIFP sort of incorporated or maybe comported with the bottom language. Do you remember hearing him say that?

A. That was my understanding of what he said, yes.

Q. And did you conclude that that was correct, did your own investigation?

A. No. No. So if the average salary of a grade 3 examiner for Division of Finance is $75,000, if you take into account the benefits are about 30 percent of salary,

that would put the compensation and benefit package for this typical person somewhere in the neighborhood of -- let me see if I can do -- so 30 percent, 22 -- about $97,500.

Q. And you took that, I guess, times five to get the total?

A. Multiplied that by five and you come up with a number, I believe, if my arithmetic is correct, $487,500, which is not $675,000.

Q. Now, let me ask you a few questions. Why did you choose a grade 3 examiner?

A. Well, I wanted to err on the side of caution, so as I was going through the manual and looking at the salaries, I thought I would pick the higher end of the salaries in case those were the people who were separated from their jobs. In my professional opinion, that's probably not the way that it would work, but for purposes of these calculations, it was sufficient to begin my analysis.

Q. So even assuming that the five -- that five people were let go that were grade 3 and made the highest amount, we're still, it sounds like, almost 200,000 short of the 675,000?

A. Correct.

Q. How long did it take you to perform that analysis?

A. About 20 minutes.

Q. So then do you agree with the DIFP? Do you agree that DIFP's analysis is correct? And I'll just direct you to the very bottom sentence here, that it would expend a correspondingly smaller amount to regulate these entities?

A. They didn't do the math. I disagree with that.

Q. Is there any other way in which the fiscal note is insufficient, in your opinion?

A. No.

Q. Okay. Let me ask you about the fiscal note summary. What was your opinion with respect to the sufficiency of the fiscal note summary, again, bearing in mind the definition of insufficient that we repeated several times here today?

MR. MOORE: Your Honor, just so the record is clear, I maintain the same objection.

THE COURT: That will be noted. I'll overrule that objection.

Go ahead.

THE WITNESS: I deemed it to be insufficient.

BY MR. GREIM:

Q. And what were the reasons that you deemed it to be insufficient?

A. In this case there were three items that stuck

Edward D. Greim provided information from **Dr. Joseph H. Haslag** who identified himself as an opponent of the proposal to the State Auditor's office.

Mr. Greim made the following comments:

Please accept the attached fiscal impact statement from Dr. Joseph Haslag, who identifies himself as an opponent of the petition. Dr. Haslag reaffirms the statement he recently submitted for petition 2014-007 (which you recently received) for petition 2014-018, which is substantively identical; to ensure that you consider Dr. Haslag's analysis in evaluating petition 2014-018 and any other forms of the same petition which may be submitted by the petition's proponents, we are providing it to you again. You testified in previous litigation that you found Dr. Haslag's analysis to be sound. You will find that Dr. Haslag has updated this same analysis to the extent new data is available.

As Dr. Haslag has testified, his analysis by no means exhausts the fiscal impact of this initiative petition. First, it addresses only payday and title lenders, not "510" lenders or other lenders who will be impacted. With respect to "510" lenders, we understand that you will be receiving an opponent's statement which will estimate that the state and local political subdivisions will stand to lose at least several million dollars a year. We adopt and support this statement.

With respect to banks and credit unions, who also make short-term loans to individuals in return for an overdraft fee, the 36% cap envisioned in this petition will have a substantial impact. It will preclude banks and credit unions from charging overdraft fees, eliminating a major source of revenue for these financial institutions. We understand that you will be receiving an opponent's statement that will estimate that state and local political subdivisions will stand to lose at least several million dollars a year, and we adopt and support this statement.

Second, Dr. Haslag has previously testified that his analysis was not intended to estimate local entities' lost tax revenue, but that a fair and complete analysis would also need to add these sums. These at least consist of sales tax and earnings tax revenues that will be lost when payday and title stores close.

Finally, Dr. Haslag calculated only some of the licensing fees and other revenue the Division of Finance and localities receive by virtue of payday and title loan stores being in business. For example, cities other than Kansas City and Springfield (which were included in Dr. Haslag's analysis) charge business license fees. These include large cities such as St. Louis, St. Joseph, and Columbia, Missouri. Further, certain businesses generate miscellaneous fee income for various state agencies when they engage in business activity. When a title lender re-titles a vehicle, for example, it must pay the Department of Revenue at least $12.50, plus a $5.00 shipping charge.

We respectfully suggest that state agencies and local subdivisions should voluntarily provide the types of information I mention here. If for any reason an entity ignores or provides an incomplete response to your inquiry, the Office of the Auditor can and

should follow up with those entities, or at the very least, consult responses the entities recently provided during the previous election cycle. I have provided copies of those responses with this letter.

The following information was also provided.

Proposed Statutory Amendment to RsMO Chapters 367 and 408

Relating to Payday, Title, Installment and Consumer Credit Loans

(2014-007)

Name: Joseph Haslag, PhD, opponent

Address: 5403 W. Tayside, Cir, Columbia, MO 65203

Phone: 573-999-0333

Fiscal Impact Summary

With the interest rate ceiling set at 36 percent for loans from payday store, the six fiscal impacts are:

- payday loan stores close because revenues do not cover the variable cost;[1]
- Gross Domestic Product in Missouri is $132.80 million lower in Year 1 and $134.0 million lower in Year 2;
- general revenues collected by the Missouri Department of Revenue are $4.84 million lower in Year 1 and $4.88 million lower in Year 2;
- licensing fees collected by the Missouri Department of Revenue are $319,800 lower in both Year 1 and Year 2;
- with employee separations, expected unemployment insurance benefits in Missouri increase by $8.04 million;
- Municipal license fees fall as the City of Kansas City collects $118,817 less in revenues in both Year 1 and Year 2. The City of Springfield loses $4,150 in revenues in both Year 1 and Year 2.

Introduction

Per the November 2014 ballot initiative proposal, passage would repeal six sections of the Revised Statutes of Missouri. The six replacement sections would, in practice, set the maximum rate at 36 percent on loans made by payday loan stores, title installment companies and other high-cost consumer credit issuers. The interest rate ceiling includes interest and any fees associated with these loans.

The motivation for the ballot initiative is ostensibly to protect consumers. The underlying premise is that high interest rates harm consumers. Such a conclusion may be warranted if the

market for payday loans is economically inefficient. High interest rates, however, do not imply the market is not working properly.

One market failure, for example, is that the payday loan stores possess market power. In other words, the interest rates are high relative to those charged by "mainstream" lenders and thus, the high rates reflect a kind of price gouging. Upon closer inspection, the costs of producing payday loans are higher than for other lenders. The market for payday loans exists primarily because borrowers are excluded from bank loans and credit cards. Every credit arrangement is subject to risk; unexpected events occur between the time the loan is extended and when it is redeemed. Different risks apply to different types of borrowers. So, while every lending institution realize some loan losses, payday loan stores specialize in providing credit to those consumers considered most likely not to redeem their loans. Loan losses for payday loan stores are greater than those realized by other lenders. To cover these higher-than-normal costs to the payday loan store, the store must charge higher than normal interest rates to make normal profits. The bottom line is that high operating costs, especially the loan loss rates, account for the high interest rates charged by payday loan stores. Under this interpretation, the high interest rates do not indicate the payday loan stores have market power.

Market power often coincides with significant barriers to entry in the market. Over 1000 payday loan stores operate in Missouri. Such large numbers do not seem to indicate that barriers to entry are present in the payday loan market. The absence of barriers to entry in the payday loan market is consistent with the notion that profits in this industry are competed away. There is nothing that says high interest rates cannot exist in competitive markets. Therefore, the supply side of the payday loan market is marked by high-than normal interest rates associated with higher-than-normal costs and ordinary profits.[2]

On the demand side of the market, consumers benefit from payday loan stores. The payday loan is unsecured debt; that is, the borrower does not offer any collateral when borrowing. Because the payday loan industry is regulated, the lending arrangement is formalized and is subject to competition from other stores. Thus, consumer safety regulations apply to these transactions and violations are enforced by government agencies. In the absence of payday loan stores, consumers would rely on informal arrangements through family or other means not subject to regulation and oversight. We can assume that the demand for unsecured short-term borrowing would not vanish if payday loan stores did not exist. Without payday loan stores, one possible unintended consequence would be that obtaining credit would become more costly for consumers to find. In other words, it is more expensive to search for credit in the informal arrangements than to walk into a store that markets this service.

Overall, the market for payday loans operates efficiently. In this market, the interest rate is mutually agreed upon by both the payday loan stores and the consumer. By implementing an interest rate ceiling, the ballot initiative will create a welfare loss to Missourians. More concretely, it is possible to quantify the economic loss to the state in terms of lost jobs and lost

output. With these losses, Missouri State Government will also see a reduction in revenues collected.

Step 1: The Effect on Payday Loan Stores

The objective for a business owner is to maximize its profits. In a competitive market setting, the firm will take interest rates as given. It is reasonable to characterize the market for payday loans as a competitive market.

In the market for payday loans, the cost structure determines whether a store will continue to operate or not. The shut-down condition states that a store will operate as long as the competitive interest rate is no lower than the average variable cost of operating the business. For the purposes of the shut-down condition, the fixed costs of operating the store are ignored.

Certain conventions are used in analyzing the payday loan market. Revenues are stated in terms of dollars per $100 worth of loans. In other words, interest payments received and all other transaction fees are converted to their value per $100 of loans. For comparison purposes, all costs are similarly measured in terms of $100 of loans. I will follow this convention in conducting my analysis.

There is one equation that is central to any analysis of the payday loan industry. The formula for calculating simple interest is

$$r = \frac{I}{Pt}$$

where r is the annual interest rate, I is the interest plus any fees paid by the borrower/consumer, P is the principal amount; and t is the time period between when the loan is extended and when it is redeemed. For payday loans, the loan is extended for 14 days. Consequently, the value for t is 14/365.

To illustrate the formula, I use data from a national survey conducted by Ernst and Young.[3] Average loan size was $379 with revenues equal to $57.85. Convert this to an amount per $100 loan and the revenue is $15.26. Thus, $r = \frac{15.26}{100(14/365)} = 397.9\%$.

According to a January 4, 2011 report filed by Missouri's Division of Finance, the calculation for Missouri payday loan stores would be $r = \frac{17.05}{100(14/365)} = 444.5\%$. Compared with returns on Treasury securities or corporate bonds, the interest rate on payday loans is very high.

Context matters. In order to assess the returns, it is vital to characterize the cost associated with payday loan stores. The Ernst and Young (2009) report includes estimates of the cost structure of payday loan stores. In that report, the mean operating cost is $13.89 per $100 loan. Between

December 2009 and October 2012, the average annual inflation rate has been 2.3 percent.[4] I assume that the costs for the payday loan store increased at the same rate as inflation. The upshot is that $\$13.89 * (1.023)^{17/6}$ to account for the inflation incurred over the 34 months between December 2009 and October 2012. The calculation yields the November 2012 operating costs per $100, which is $14.81.

Revenues per $100 also need to be adjusted to account for increases in the price level over time. I assume that revenues increase at the same rate as the national inflation rate. The expression is. $\$15.26 * (1.023)^{17/6}$. The November 2012 revenue value is $16.28. Suppose that pay loan stores in Missouri are typical in the sense that the revenues and operating costs are equal to the national levels. The profit per $100 loan is $16.28 less $14.81 equals $1.47. With the cost accounting done, the interest rate on a loan is yields an annual expected return per $100 loan equal to $r = \frac{1.47}{100(14/365)} = 38.3\%$. This return has to be assessed relative to other unsecured loans with similar risk characteristics. No exactly comparable loan has readily observable interest rates, but the reader should note that credit card which is unsecured is 24.96 percent for cardholders identified as "bad debt."[5]

Ultimately, the question is whether payday loan stores will continue to operate with the proposed interest rate ceiling implemented. Use the simple interest rate formula to compute the interest and transaction fee consistent with a 36 percent annual interest rate. For interest and transaction fee per $100 loan, the calculation is done as follows: $36\% = \frac{I}{100(14/365)}$ or $I = 36\% * 100(14/365) = \$1.38$. Thus, the ceiling on the interest and transaction fee collected for a $100 2-week payday loan is $1.38.

In the Ernst and Young report, costs are divided into three categories. There are fixed costs, variable costs, and hybrid costs. Fixed costs include things like buildings and machines that are decided upon and do not depend on the volume of loans made by the payday loan store. Variable costs include costs that depend wholly on the volume of loans made, such as loan losses. Hybrid are part fixed and part variable. Labor costs are treated as a hybrid by Ernst and Young. During high-volume periods, payday loan stores need to hire more workers. Conversely when loan volume is low, fewer workers are needed. Ernst and Young justify labor as a hybrid cost because a payday loan store has some minimum quantity of workers regardless of the loan volume. According to the Ernst and Young report, the total cost is, in 2012 dollars, $14.81 per $100 loan. Total costs include items from all three categories. Our first goal is to identify a measure of variable costs. I start with a conservative measure of variable costs: the costs of processing the payday loan, costs of obtaining funds to loan, and bad debt costs are my measure of variable costs.[6] These costs account for 35 percent of total costs for payday loan stores. Thus, for my conservative measure, variable operating cost is $14.81 times 0.35 equals $5.19 per $100 loan. Under the interest rate ceiling, the revenue per $100 loan is $1.38. Thus, the revenue per $100

loan does not cover a conservative estimate of variable costs. With revenues insufficient to cover variable costs, the payday loan store will shut down.

In the last two years, three states have implemented an interest rate ceiling on payday loan stores. Arkansas' constitution sets the interest rate ceiling at 17 percent. In 2008, the Arkansas Supreme Court found laws enacted to circumvent the ceiling were unconstitutional. By July 31, 2009, all payday loan stores were closed. Arizona and Montana set the interest rate ceiling at 36 percent. In both states, reports indicate high closure rates of payday loan stores. Such observations are consistent with the notion that an interest rate ceiling of 36 percent or below does not generate enough revenues to meet variable costs and stores shut down.

Step 2: The Effect of Payday Store Closings on the Missouri Economy

Based on the estimated impact that the interest rate ceiling will have on the individual payday loan store, the next calculation is to examine the aggregate effect on the state economy. More specifically, I will use data from the Missouri Division of Finance report to compute the market value of finals sales of payday loan stores. This calculation amounts to identifying the change in Gross Domestic Product for Missouri that owes to the resources freed by payday loan stores shutting down.

Note that the calculations will not rely on any multiplier effect. These are the direct resources freed by store shutdowns and the value of the services provided by that shutdown. It is as if these resources migrated to be productive elsewhere, as in another state, for example.

The Division of Finance study reports that payday loan stores in Missouri made 2.43 million loans between November 1, 2009 and October 31, 2010. I assume that the quantities of payday loans are constant over time. For 2012, therefore, payday lenders in Missouri will make 2.43 million loans during the calendar year. According to the Division of Finance report, the average loan value was $307.56. Between November 2010 and October 2012, the annual average inflation rate is 2.3 percent. I assume the loan value increases at the same rate as inflation. Therefore,$\$307.56 * (1.023)^2 = \$321.87$. So, the total loan volume in 2012 is 2.43 $million \times \$321.87\ per\ loan = \$782.15\ million$. In order to get an aggregate revenue measure, we use average revenue per $100 loan data from the Ernst and Young report. Recall that average revenue per $100 loan, 2012 dollars, is $16.28. With aggregate state loan volume equal to $782.15 million in 2012, this translates in 7.8215 million worth of $100 loans. So, I multiply 7.8215 million by $16.28, which equals $127.30 million in aggregate revenues for payday loan stores located in Missouri.

Thus, the annual value of direct final sales by payday loan stores in Missouri is $127.30 million in Year 1. By imposing the interest rate ceiling at 36 percent and the resulting store closings, Missouri would see its Gross Domestic Product decline by $127.30 million in Year 1 of the interest rate ceiling being implemented. In Year 2, the economy would grow relative to Year 1. Suppose the final sales of payday loan stores is a constant fraction of Missouri's economy, The

average annual growth rate of Missouri's Gross Domestic Product is 0.9 percent after adjusting for inflation. Holding prices constant, therefore, the Year 2 loss of Gross Domestic Product in Missouri is$\$127.30\ million \times 1.009 = \$128.44\ million.$

There is no direct measure of the number of people employed in payday loan stores in Missouri. Flannery and Samolyk (2005) find that, on average, there are 2.5 full-time equivalent employees in each payday loan store that has operated at least one year. There are 1066 stores operating in Missouri in 2010. I do not know the age distribution of the payday loan stores, but suppose each store operated at least one year. Under this assumption, payday loan store closings would result in 2,665 fewer full-time equivalent employees in Missouri.

Job losses would result in unemployment insurance claims. I use Flannery and Samolyk's mean wage and salary for payday loan workers. They report the average worker makes $31,760 per year. For the payday loan worker, the weekly unemployment insurance benefit is 4 percent of the quarterly wage and salary or $320, whichever is smaller. Quarterly wage and salary is $\$31{,}760 \div 4 = \$7940$. Four percent of the quarterly wage and salary is$\$7940 \times 0.04 = \$317.60$, which is less than $320 ceiling that can be paid to a worker. The average unemployment spell lasts 9.5 weeks. Thus, $\$317.60 \times 2665\ separated\ workers \times 9.5\ weeks = \$8{,}040{,}838$. After taking the number of workers dismissed by closing payday lending stores in Missouri, the expected unemployment insurance benefits paid to these workers is $8.04 million. Companies pay unemployment insurance premiums to the state. When there is long-term unemployment that exhausts the funds in the unemployment insurance fund, the state borrows from the Federal government. The state must pay the Federal government pay. If the funds from the unemployment insurance premiums are not rebuilt fast enough, then the loan made by the Federal government to state unemployment insurance funds may be repaid from Net General Revenue. Note that 2012 continues to see long-term unemployment draining the Missouri Unemployment Insurance Fund, suggesting Missouri's Net General Revenue Fund may be responsible for repaying the Federal Government. Under these specific conditions, then the $8.04 million is a cost borne by the State of Missouri.

Step 3: The Effect on Missouri State Net General Revenue

Now that we have computed the effect that the proposed interest rate ceiling applied to payday loan stores on Missouri economy, we turn to the effect that the policy change would have on revenues collected by Missouri State Government.

Note that Gross Domestic Product in Missouri is a broad measure of the tax base. Individual income, corporate income and sales taxes collected by Missouri's Department of Revenue are related to the state's Gross Domestic Product. On average, 3.8 cents of each dollar of Gross Domestic Product in Missouri is collected as Net General Revenue collected by Missouri's Department of Revenue. In other words, the average amount of individual income taxes, corporate income taxes and sales taxes is 3.8 cents per dollar of final goods and services

produced in Missouri. Here, the term "Net" refers to the balance collected *after* refunds are taken into account. Based on this historical average, if Missouri's Gross Domestic Product declines by \$127.30 million, then $\$127.30\ million \times 0.038 = \$4.84\ million$. In other words, Missouri's Net General Revenue would decline by \$4.84 million in Year 1 of the interest rate ceiling because payday loan stores would close in response to the proposed interest rate ceiling. Following the expanding loss of the tax base in Year 2, the loss of Net General Revenue is $4.84\ million \times 1.009 = \$4.88\ million$.

In addition, payday loan stores pay licensing fees to operate in Missouri. Let there be 1,066 payday stores operating in a typical year. Then imposing the interest rate ceiling and the resulting store closings would reduce the license fees collected by the State of Missouri. The lost license fee revenue equals $1{,}066\ stores \times \$300 = \$319{,}800$.

Thus, the combined revenue loss to the State of Missouri is \$2.49 million in Year 1 and \$2.51 million in Year 2 of the interest rate ceiling.

Treat the costs to Missouri State Government as the sum of foregone revenues and actual disbursements to unemployment insurance claimants. In Year 1, the total costs are $\$4.84\ million + 0.32\ million + 8.04\ million = \$13.2\ million$. In Year 2, the total costs are $\$4.88\ million + 0.32\ million = \$5.2\ million$. Note that all the unemployment insurance benefits are disbursed in Year 1 after the payday loan stores close, thus accounting for the large difference between the two years. See the appendix Table A for a complete characterization of the costs in Year 1 and Year 2.

Step 4: Local Fiscal Impacts

Municipalities also collect revenues from licensing fees paid by payday loan stores. According to information provided by Commissioner of Revenue, the City of Kansas City collected fees and revenues from Payday loan stores equal to \$118,817 in 2010. Suppose the revenues and fees lost by the City of Kansas City lost are equal to the 2010 amounts. In Year 1 and Year 2 after the interest rate ceiling is implemented, the City of Kansas City would lose \$118,817 in revenues and fees because payday loan stores close.

In addition, City of Springfield collects \$50 business license fee. There are 83 payday loan stores in Springfield according the Licensing Representative for the City of Springfield. Suppose the interest rate ceiling is implemented and all payday loan stores close. The City of Springfield would lose $83 \times \$50 = \$4{,}150$ in Year 1 and Year 2 after the ceiling is implemented.

Title Lender Analysis

To date, there are no studies that I am aware of that characterize the cost structure for the title lenders. Zywicki (2008) describes the market and standard practices. One particular description is pertinent to this study. He reports that roughly 15 percent of title loans default with only half

of those defaults resulting in vehicle repossession. In the other half of the defaulting loans, the conditions of the automobile makes repossession unprofitable. Title loans are, therefore, quasi secured.

There is no evidence that there are barriers to entry in the title lending industry. As such, the market interest rate charged by auto title loan companies covers their costs and yields a normal profit. Lowering the rate to 36 percent will, in my view, almost assuredly result in store closings as title lenders cannot cover variable costs.

Suppose all title lending stores close. According to the Missouri Division of Finance, there are 270 title lenders in Missouri. Two assumptions are necessary to estimate the impact on Missouri Gross Domestic Product. I assume the average wage for full-time workers at title lending stores is the same as those at the payday loan stores. I also assume that each title lending store employs the same number of full-time equivalent workers as payday loan stores. Further, I assume that the GDP reduction suffered by Missouri is equal to the amount for wages lost because the title lending stores close. The supposition behind the closure assumption is the same argument given when analyzing the payday lending stores.

With these two assumptions, the effect on the Missouri Gross Domestic Product is $\$31{,}760 \times 2.5\ employees\ per\ store \times 270\ stores = \$21{,}438{,}000$. This amount is calculated based on November 2010 wage payments. If title lender employees' wages increase at the same rate of inflation, then the GDP loss in 2012 is $\$21{,}438{,}000 * (1.023^2) = \$22{,}435{,}489$. Thus, the effect in Year 1 of the interest rate ceiling is $22.4 million. If lending store effects grow at the same rate as the Missouri economy, then in Year 2, Missouri Gross Domestic Product declines by $22.6 million.

The impact on Missouri Net General Revenue is 3.8 cents per dollar of Missouri Gross Domestic Product lost. So, in Year 1, Missouri Net General Revenue is $853 thousand and Year 2 is $860 thousand.

Missouri's Division of Finance will lose licensing fees if the title lending stores close. Per store fees are $1,000. With 270 title lending stores closing, the state loses $270 * \$1{,}000 = \$270{,}000$ in fees collected.

There are also expected unemployment insurance benefits paid by the state of Missouri because of the store closings. With 270 store closings and 2.5 full-time workers per store, 675 workers are separated from their jobs. The expected unemployment insurance claims are $\$317.60 \times 675 \times 9.5\ weeks = \$2{,}036{,}610$. Provided the State of Missouri would need to borrow these funds to pay unemployment insurance benefits and then repay the loans out of Net General Revenue funds, then the costs of additional unemployment insurance benefits would be $2.04 million to Missouri State Government.

Suppose all the title lending stores close because of the interest rate ceiling. By adding together the additional costs associated with title lending stores—that is, the foregone net general revenue, the foregone licensing fees, and the expected unemployment insurance benefits--the total costs to Missouri State Government are $3.16 million in Year 1 and $1.13 million in Year 2. Note these are costs over and beyond the costs associated with payday lending stores closing. See the appendix Table B for a complete characterization of the costs in Year 1 and Year 2 if both payday lending and title loan stores close.

Conclusion

A ballot initiative has been put forward that if passed would limit the interest rate, including all fees, that payday loan and title companies could charge their customers. The purpose of this report is to assess the economic impact that the proposed 36-percent interest rate ceiling would have on the Missouri economy. In particular, I have quantified the direct economic loss to the aggregate state economy and to the general revenue funds that would accompany the closing of payday loan stores. I explained that the ballot initiative is not consistent with payday loan stores to be able to cover their variable cost. As such, these stores would meet the shut-down conditions and would close. Overall, Missouri would lose GDP worth $127.30 million in Year 1 and $128.44 million in Year 2 of the interest rate ceiling. It follows that the tax base shrinking would also negatively affect state revenues. Missouri's net general revenue would fall by $4.84 million in Year 1 and $4.88 million in Year 2 after the interest rate ceiling is implemented.

In addition, unemployment insurance benefits would need to be paid to the workers losing their jobs because the payday loan stores close. The expected unemployment insurance benefits paid by the State of Missouri would be approximately $8 million.

Though not analyzed explicitly in this report, it is important to note that consumers will suffer because of the vanishing suppliers of short-term credit. Revealed preference tells us that if an alternative mechanism for obtaining short-term credit were available and if the transaction costs were less than or equal to the costs of using payday loan stores, then consumers would choose this alternative mechanism. Indeed, informal loan networks—families and underground lenders—exist. Yet, the market determined interest rate I mutually beneficial to both payday loan stores and to those who borrow from these stores. Backward induction tells us that the payday loan store is in many instances the low-transaction-cost means of means of obtaining credit. Otherwise, no market transactions would be observed through payday loan stores.[7]

Appendix Table A

Summary of Costs to State of Missouri

(Payday Lending Stores only)

Type of Costs	Year 1	Year 2
(1) Lost Gross Domestic Product by State	$127.30 million	$128.44 million
(2) Lost Net General Revenue to Missouri	$4.84 million	$4.88 million
(3) Unemployment Insurance Benefits	$8.04 million	n/a
(4) Lost License Fees Paid to Missouri	$0.32 million	$0.32 million
Total Costs to Missouri (combined revenues lost and benefits paid; that is, (2) + (3) +(4))	$13.20 million	$5.20 million

Appendix Table B

Summary of Costs to State of Missouri

(Payday Lending Stores and Title Loan Stores combined)

Type of Costs	Year 1	Year 2
(1) Lost Gross Domestic Product by State	$149.7 million	$151.04 million
(2) Lost Net General Revenue to Missouri	$5.69 million	$5.74 million
(3) Unemployment Insurance Benefits	$10.08 million	n/a
(4) Lost License Fees Paid to Missouri	$0.59 million	$0.59 million
Total Costs to Missouri (combined revenues lost and benefits paid; that is, (2) + (3) +(4))	$16.36 million	$6.33 million

[1] Note that the Missouri Division of Finance assumes that all title loan stores would shut down if the interest rate ceiling is implemented.

[2] In a report published by the Federal Deposit Insurance Corporation, Flannery and Samolyk (2005) survey payday loan facilities. In Figure 1 of their report, there is 1 payday loan store per 1000 people in Missouri. See Flannery, Mark and Katherine Samolyk (2005), "Payday Lending: Do the Costs Justify the Price?" FDIC Center for Financial Research Working Paper no 2005-09.

[3] "The Cost of Providing Payday Loans in a US Multiline Operator Environment" Ernst and Young, September 2009.

[4] The October 2012 reading of the Consumer Price Index was 231.7 while the December 2009 reading was 217.3. The average inflation rate between these two dates is 2.3 percent at annual rate.

[5] See http://www.creditcards.com/press-releases/CreditCards-Weekly-Credit-Card-Rate-Report-June-29-2011.php.

[6] Ernst and Young also identify a cost as a hybrid with is comprised of costs that have both variable and fixed attributes. Wage and salary is the largest component in the hybrid category, accounting for nearly 26 percent of total operating costs.

[7] Morgan and Strain (2008) present survey evidence on the effects of interest rate ceilings have on measures of consumer well being. See, Morgan, Donald P. and Michael R. Strain (2008), "Payday Holidays: How Households Fare After Payday Credit Bans," Federal Reserve Bank of New York Staff Report no. 309.

Robert Zeitler provided information as an opponent of this initiative petition.

Mr. Zeitler indicated here are fiscal comments regarding the pay day lending initiative petition in addition to my earlier letter:

It is estimated that the proposed state law ban on bank overdraft loans would result in a loss to state general revenue of approximately $17,372,808.

This estimate is based on the following assumptions:

(1) Nationwide in 2008, bank overdraft loan fees totaled $23,700,000,000. http://consumerfed.org/pdfs/CommentsPaydayandOverdraftGuidanceAug2011.pdf

(2) Per the Census Bureau, Missouri has 1.929026% of the US population. http://quickfacts.census.gov/qfd/states/29000.html

(3) A reasonable way to estimate total bank overdraft fees in Missouri and their contribution to Missouri Gross Domestic Product is to allocate the nationwide fees to Missouri in proportion to the state's percentage of the national population. That calculation yields $457,179,162 ($23,700,000,000 X .01929026)

(4) In Missouri, State General Revenue collects about 3.8% of Gross Domestic Product. (See Haslag fiscal comments to pay day lending initiative petition)

(5) Accordingly, the ban on bank overdraft loan fees would result in the loss of approximately $17,372,808 in State General Revenue collections. ($457,179,162 X .038)

Based on my 25 years of experience in the consumer finance industry, I think this proposal will also result in significant job loss as follows:

2400 jobs in the payday loan industry: 1200 stores X 2 employees

1200 jobs at pawn stores: 600 stores X 2 employees

2000 jobs with installment lenders: 1000 businesses X 2 employees

1000-2000 jobs at banks

The following information was also provided.

PROPOSED STATUTORY AMENDMENT TO RsMO CHAPTERS 367 AND 408

Relating to Payday, Title, Installment and Consumer Credit Loans

(2014-007)

Name: Robert Zeitler, Opponent

Address: 1209 Diamond Valley Drive, St. Louis, MO 63049

Phone: 314-368-2838

The Impact of Initiative Petition 14-007 on the Banking Industry

The State Auditor should consider the potential impact of the proposed measure, Initiative Petition 14-007, on the banking industry. As of June 30, 2012, there were 274 banks and six nondeposit trust companies regulated by the Missouri Division of Finance.[1] Missouri ranks fifth in the nation in the number of state-chartered banks and fifth in the number of total banks with 303.[2] Assets in Missouri state-chartered banks totaled $94.4 billion, deposits totaled $78.7 billion, and loan volume totaled $54.4 billion.[3] The Missouri banking industry will be affected by the proposed measure as the proposed measure would cap the fees and interest charged by banks in connection with loans at 36%. Currently, banks earn a substantial amount of revenue as a result of fees collected in excess of that amount.

In recent comments to the Office of the Comptroller of the Current on Deposit-Related Consumer Credit Products, the Center for Responsible Lending stated:

> The most dramatic growth in expensive short-term lending by mainstream banks has been in high-fee overdraft loans, which today cost Americans billions of dollars a year…What began ad-hoc occasional courtesy that banks and credit unions provided to their customers grew to a $10.3 billion "service" in 2004 and to a $23.7 billion one in 2008.[4]

The APR on an overdraft repaid in two weeks ranges from 910% to 3250%,[5] well in excess of the 36 % cap imposed by the proposed measure. It has been reported that the rise in overdraft

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[1] See http://finance.mo.gov/banks/.

[2] *Id.*

[3] *Id.*

[4] Available at http://www.consumerfed.org/pdfs/CommentsPaydayandOverdraftGuidanceAug2011.pdf.

[5] See the FDIC Survey of Bank Overdraft Programs, available at http://www.fdic.gov/bank/analytical/overdraft/FDIC138_ExecutiveSummary_v508.pdf and "2012 CFA Survey of Big Bank Overdraft Loan Fees and Terms" available at http://www.consumerfed.org/pdfs/Studies.CFAOverdraftSurveyUpdateJune2012.pdf ("The cost of a $100 overdraft

options are the banking industry's "answer" to payday loans.[6] Banking consultants market the services to banks as a payday lending alternative, stating:

> Some bank customers are driven by convenience and the need for short term funds. They are willing to pay for the privilege of spending money they don't quite have yet. Somehow, these customers will get the money they need. Wary of the uncertain consequences of overdrawing their checking account, many pay routine bills late and incur late fees, many also choose to patronize payday loan outfits, cash checking services and the like. The result? Your customers are paying big fees to meet their simple banking needs, but not to you. With the OverdraftHonor program, you can give your customers an alternative, one that saves them money while dramatically increasing your fee income.[7]

Banking consultants are correct in that the overdraft programs have the potential to increase a bank's fee income. Banks earn a substantial amount of revenue based on non-sufficient fund fees. In fact, the FDIC reports:

> The banks earned an estimated $1.97 billion in NSF-related fees in 2006, representing 74 percent of the $2.66 billion in service charges on deposit accounts reported by these banks in their Reports of Conditions and Income (Call Reports). Total NSF-related fee income accounted for roughly 6 percent of the total net operating revenues earned by the banks. Banks operating automated overdraft programs earned $1.77 billion in NSF fees in 2006, accounting for 90 percent of total NSF related fee income earned by the entire study population.[8]

The proposed measure would cost banks a substantial portion of the amount they currently generate on NSF-related fees. While some have previously suggested that the intent was not to include banks within the scope of the proposed measure, Missouri courts will look to the language of the initiative to make that determination. Banks have previously relied on cases such as *Video Trax* to argue that overdraft fees are not interest, but that case will not save banks from application of the proposed measure here.

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repaid in two weeks, adding up initial and sustained overdraft fees that would accrue in that time period, was computed as if this were a closed-end payday loan. The highest equivalent APRs are charged by Fifth Third Bank (3,250%), RBS Citizens (2,779%), PNC Bank (2,574%), and U.S. Bank (2,158%)…The lowest-cost two-week overdraft loans are made by Citibank at 884% (checks), HSBC (checks) and Wells Fargo at 910% and by Regions at 936%.").

[6] See "Bounce Protection: How Banks Turn Rubber into Gold by Enticing Consumers to Write Bad Checks An Examination of Bounce Protection Plans," available at http://www.nclc.org/images/pdf/overdraft_loans/bounce-protection-appendix-2003.pdf.

[7] *Id.*

[8] FDIC Survey of Bank Overdraft Programs, available at http://www.fdic.gov/bank/analytical/overdraft/FDIC138_ExecutiveSummary_v508.pdf.

In *Video Trax,* a business checking account holder alleged that an overdraft fee was "interest" in excess of the lawful amount allowed under the National Bank Act. *Video Trax, Inc. v. NationsBank, N.A.*, 33 F.Supp.2d.1041, 1045 (S.D. Fla. 1998). The Bank argued that the overdraft fees did not constitute "interest" *within the meaning of the usury provisions of the Bank Act.* The court did not hold that overdraft fees are never interest, but rather made a specific finding relating to a specific provision of federal law. *Id.* at 1050. The court held: "Because the [overdraft] fees were not imposed in connection with a credit transaction, the fees are not interest as defined by the Bank Act." *Id.*[9]

The proposed measure reads as follows:

> 408.100 .2.This section shall apply to all loans… except that it shall not apply to loans which are secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations. On any loan subject to this section, any person, firm, or corporation may charge, contract for and receive interest on the unpaid principal balance at rates agreed to by the parties provided that the interest, fees and finance charges shall not exceed an annual percentage rate of thirty-six percent.

First, it is important to note that there is no blanket exemption for bank loans. While some bank loans may be exempt because they are "secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations," many bank loans are not covered by such exemptions. Indeed, the trial judge commented during the trial over the same language "I don't see where … banks would be exempt from this rule." Trial Transcript, 239:8-9.

The real question is not, as it was in *Video Trax,* whether overdraft fees constitute "interest" within the meaning of the usury provisions of the Bank Act, but rather whether the charging of an overdraft fee constitutes a "loan" and whether an overdraft fee is an "interest, fee or finance charge" which would exceed an APR of 36% within the meaning of the proposed measure.[10]

Missouri courts have held that payment of overdraft fees constitutes a loan. See *Hill v. Mercantile First Nat. Bank of Doniphan,* 693 S.W.2d 285, 291 (Mo. App. S.D. 1985) ("The payment of an overdraft constitutes a loan by the bank to the drawer of the overdraft, a loan for which the drawer is liable.").[11] The interest, fee or finance charge on an overdraft fee is in

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[9] "[T]he Court finds that the term "interest rates" or "rates of interest" as used in § 85 of the Bank Act ought to be construed in compliance with the term's plain and ordinary meaning and its well entrenched federal common law meaning, so as not to include contingent default fees." *Id.* at 1055.

[11] See also *Vandagrift v. Masonic Home of Mo.*, 145 S.W. 448, 451 (Mo. 1912) ("[F]or the overdrafts of … any … depositor, the bank extended credit to them and expected them to repay such indebtedness. This consists with the rule of law that the relation of debtor and creditor subsists between a bank and its depositors…This rule is necessarily reciprocal, so that, when a bank permits its customer to overdraw, he thereby becomes the debtor and the bank the creditor, or a reversal of positions takes place without any change in the nature of their legal relations.").

excess of 36%. The FDIC has reported that the APR for the typical overdraft situation is over 1000%.[12]

This will substantially affect the millions of dollars earned by banks in Missouri on NSF fees. There are other services offered by banks in addition to overdraft programs that will similarly be affected by this proposed measure. Substantial changes to the overdraft programs or availability of such programs has the potential to significantly impact the spending decisions of Missouri consumers, which would result in further losses to the state in the form of lost state and local sales tax revenue. In addition, there is no reason to expect that Missouri credit unions, which have reported 603,838 loans totaling $5.36 billion,[13] would similarly be affected in Missouri.

The proposed measure will prohibit banks, and other entities, from offering certain services which they now currently offer. In doing so, it will cost these industries millions of dollars. This will, in turn, cost the state of Missouri and local governments, millions in lost tax revenue.

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[12] FDIC Survey of Bank Overdraft Programs, available at http://www.fdic.gov/bank/analytical/overdraft/FDIC138_ExecutiveSummary_v508.pdf.

[13] See Missouri Credit Unions' 2011 Scorecard, available at https://www.mcua.org/sites/default/files//files/Publications/ScorecardWEB.pdf.

The State Auditor's office did not receive a response from the **Department of Health and Senior Services,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, University of Missouri, and St. Louis Community College**.

Fiscal Note Summary

State and local governmental entities could have annual lost revenue estimated of at least $17 million if the proposal results in significant business closures. Changes in economic activity could offset these potential losses by an unknown amount.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-022)

Subject

Initiative petition from Herman Kriegshauser regarding a proposed constitutional amendment to Article X. (Received February 13, 2013)

Date

March 4, 2013

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, and Truman State University.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

Donations to schools have no impact on the foundation formula; therefore, a receiving school district's state aid is not reduced when a donation is received. The receiving school has discretion over spending the funds, unless the donation is accompanied by specific donor requirements. The potential for donated funds cannot be estimated as it depends upon the actions of individual and corporate taxpayers.

Tax subsidies, on the other hand, reduce the state's tax revenues and decrease the amount of money available to be distributed equitably through the foundation formula for public schools and all public school students. The potential for lost revenue cannot be estimated as it depends upon the actions of individual and corporate taxpayers.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition has no impact on their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this proposal would increase personal service and expense and equipment costs for their department by $229,730 for fiscal year 2014, $204,700 for fiscal year 2015, and $206,861 for fiscal year 2016.

This petition provides a Missouri State Income Tax Credit of 60% to individuals and corporations who donate directly to a Missouri not-for-profit elementary and secondary schools and/or school districts, and Missouri not-for-profit foundations which provide scholarships for graduates of Missouri secondary schools to attend Missouri not-for-profit higher education colleges, and universities.

The United States Department of the Treasury and Internal Revenue Service approve these foundations for donors to currently qualify to receive a tax deduction against their Federal and Missouri state income taxes due.

This Missouri state income tax credit is to be applied to the actual amount of the donation and to be subtracted from the donor's Missouri state income tax due for the taxable year in which the donation is made, but not to exceed the donor's Missouri state income tax liability for that taxable year.

This tax credit is in addition to all Federal and Missouri state income tax deductions currently allowable to the donor. Further, if Missouri voters approve through an initiative petition or by a referendum of the General Assembly, a Missouri Constitutional amendment to abolish or repeal the current Missouri state income tax on individuals and/or corporations and a different method of taxation is legislated to replace the lost revenues, then 60% of the amount of the individual or corporation donation would be refunded to the donor by the Missouri Department of Revenue from the state tax revenues then collected from the taxpayer donor through the new method or form of taxation.

Tax credits create an unknown, negative impact on total state revenue. The department will need to make forms changes. The department and ITSD-DOR will need to make programming changes to various tax systems.

The IT portion of the fiscal impact is estimated with a level of effort valued at $22,722.

The value of the level of effort is calculated on 840 FTE hours.

The department expects additional staff to be needed in the following divisions:

Personal Tax:
One (1) Revenue Processing Technician I (Range 10, Step L) per 6,000 additional tax credits claimed.

Collections & Tax Assistance (CATA):
One (1) Tax Collection Technician (Range 10, Step L) for every additional 15,000 contacts annually on the non-delinquent tax line with CARES equipment.

One (1) Revenue Processing Technician I (Range 10, Step L) per 4,800 contacts annually to the field offices with CARES equipment.

One (1) Tax Collection Technician (Range 10, Step L) for every additional 15,000 contacts annually on the delinquent tax line with CARES equipment.

Corporate Tax:
One (1) Revenue Processing Technician I (Range 10, Step L) per 6,000 additional tax credit redemptions with CARES phone system.

DOR officials made the following additional comments:

The department requests clarification as to the intent of the following provision. The language, as written, appears to require the individual or corporation to donate to both not-for-profit foundations.

A Missouri State Income Tax Credit of sixty percent (60%) is provided to individuals and corporations who donate directly to:

a. Missouri not-for-profit elementary and secondary schools and/or school districts, and
b. Missouri not-for-profit foundations which provide scholarships for graduates of Missouri secondary schools to attend Missouri not-for-profit higher education colleges, and universities.

The department recommends clarifying that the credit is sixty percent (60%) of the donation.

The department recommends changing the term “donors” to “donor’s.”

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department. Adoption of this tax credit may result in a decrease in general revenue available to the state for all programs. Whether or not their department would be impacted depends on the appropriation process.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated:

This proposed amendment creates a tax credit against state income taxes for individual and corporate contributors to non-profit schools and scholarship foundations in Missouri, in addition to all current deductions allowable. There is no impact on the Office of

Administration. However, there is a statewide impact due to the substantial loss of general revenue funds.

This proposal will annually reduce general and total state revenues by up to an estimated $236.5 – $938.0 million.

Individual Income Tax

According to the IRS Statistics of Income for Missouri, Tax Year 2010,[1] the IRS estimates contributions deducted from income tax totaled $2,840M. However, this figure is limited to those taxpayers that itemize contributions on their tax form, roughly 24 percent of taxpayers. This proposal does not limit the credit to only those taxpayers that itemize deductions, and thus appears to be available to all taxpayers, so the actual charitable contributions could be as high as $11,833M.

The IRS data does not identify the amount of contributions that may have been made to educational institutions. However, a report from *GivingUSA* notes education donations comprise 13% of all charitable giving.[2] Therefore, applying the 13% ratio suggests that Missouri donations are an estimated $369.2M - $1,538.3M. A 60% credit would thus reduce general and total state revenues by up to $221.5M - $923.0M. Budget and Planning (BAP) notes that this tax credit is not refundable or transferable, which will mitigate some of these lost revenues.

Corporate Income Tax

According to the IRS Statistics of Income for Tax Year 2008 (the most recent available),[3] the IRS estimates US corporations made $12.448B in contributions. BAP assumes 1.6% of those were made by Missouri taxpayers,[4] or $199M. Applying the 13% ratio provided above suggests that Missouri education donations are $25.9M. A 60% credit would thus reduce general and total state revenues by $15.5M.

Technical Comments

1. BAP assumes if this proposal is approved by voters in November 2014, it becomes effective immediately upon certification. Thus, the first year of fiscal impact would be Tax Year 2014, or Fiscal Year 2015.

Officials from the **Missouri Senate** indicated this initiative has no fiscal impact to their agency.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated they can't see that this directly affects

[1] http://www.irs.gov/pub/irs-soi/
[2] http://www.nps.gov/partnerships/fundraising_individuals_statistics.htm
[3] http://www.irs.gov/pub/irs-soi/08co02ccr.xls
[4] Based on the ratio of Missouri tax to the US Total, Morgan Quitno State Rankings 2010, p.267.

their city unless, by some stretch, deductions decrease available state funds that might otherwise be distributed to local governments.

Officials from the **City of Jefferson** indicated they do not believe this proposal would have any fiscal impact on their city should this petition become law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact (cost or savings) on their city.

Officials from the **City of Kirkwood** indicated there would be no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated there would be no direct impact on their city since they receive no income tax revenue.

Officials from **Metropolitan Community College** indicated this would have a positive, although unknown, fiscal impact on their college.

Officials from the **University of Central Missouri (UCM)** indicated:

Quantifying the fiscal impact of this proposed tax credit requires speculation both as to potential donation increases, and as to what the state would do to offset the revenue loss that would result from providing donors the 60% tax credit. Approximately $1.5 million of UCM's $2.46 million in fundraising from last fiscal year is from Missouri residents, which could potentially equate to $900k in tax credits for donors. The question is how would the state of Missouri compensate for the loss of state income tax revenue? If the loss of state income tax revenue would result in additional reductions in public higher education funding, the proposal could possibly have a negative impact on Missouri public higher education institutions.

Both private and public education could potentially benefit from increased giving stimulated by the tax credit. However, only public education would be at risk for funding cuts resulting from state revenue loss. If donations across the state increased in future years, the disproportional burden born by state education would only increase.

Officials from **Missouri State University** indicated:

The proposed 60% Missouri State Income Tax Credit would provide a tremendous advantage to the Missouri State University Foundation in order to attract additional endowed scholarships for the university. It would provide much needed resources to making higher education affordable and accessible to a much larger population. However, a potential downside would be if the state would lose significant revenue as a result of the tax credits and thus be forced to reduce funding to higher education, we may find ourselves in no better position.

The State Auditor's office did not receive a response from the **Department of Public Safety,** the **Governor's office,** the **Department of Transportation,** the **Office of State Courts Administrator,** the **Secretary of State's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri,** and **St. Louis Community College, Harris-Stowe State University, Lincoln University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, and Truman State University.**

Fiscal Note Summary

Annual state government revenue may decrease by an estimated $236 million to $938 million. Annual state operating costs may increase by at least $200,000. Reduced state revenue could result in decreased state funding for local governments and public education entities. Public education entities could have an unknown increase in donation revenue.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-024)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article IX. (Received March 18, 2013)

Date

April 5, 2013

Description

This proposal would amend Article IX of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

The **Missouri Association of School Administrators (submitted by Roger Kurtz)** and the **Missouri National Education Association (submitted by Ann Jarrett)** provided information as opponents of the proposal to the State Auditor's office.

Scott Dieckhaus provided information as a proponent of the proposal to the State Auditor's office.

Katherine Casas provided information as a proponent of the proposal to the State Auditor's office.

Amanda Henry provided information as a proponent of the proposal to the State Auditor's office.

Joe Knodell provided information as a proponent of the proposal to the State Auditor's office.

Marc Ellinger on behalf Proponents of the Proposed Measure provided information as a proponent of the proposal to the State Auditor's office.

Representative Stephen C. Cookson, **Missouri House of Representatives** provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs resulting from this proposal could be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated they assume this initiative will have no cost on their agency beyond what is currently in the ESEA waiver. School districts electing to adopt the Missouri Educator Evaluation System developed by the Department of Elementary and Secondary Education should incur no cost in the development of the evaluation instrument mandated under the proposed amendment. Should districts choose to develop and implement their own evaluation instruments, the costs to those districts are unknown.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition has no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact.

Officials from the **Department of Social Services (DSS)** indicated:

Section 3(d) would reclassify all teachers as "at will employees," unless there is a contract between the teacher and school district. To be a contracted teacher, the teacher must have a valid certificate to teach in the state of Missouri.

Section 3(e) limits the duration of the employment contract to three (3) years or less.

Section 3(f) requires the creation and implementation of a "standards based performance evaluation" which is based on various performance measures. The goal is to retain and promote successful teachers and discharge unsuccessful teachers.

Section 3(g) the school may terminate a teacher if they are deemed to be unfit to instruct children; have been insubordinate; participated in immoral conduct; fail to obey state law; excessively absent; or convicted of a felony or crime of moral turpitude.

Section 3(h) sets forth that the person bringing suit regarding retention, promotion, demotion, dismissal, removal, discharge, and compensation, must establish that the school district failed to properly utilize the standards based performance evaluation system, unless the teacher was terminated for the grounds stated in 3(g).

Section 3(i) sets forth that certificated staff have the right to organize and bargain collectively, except with respect to the design and implementation of the performance based evaluation system established in this article.

The Division of Youth Services (DYS)/Department of Social Services (DSS) is an accredited school district through the Department of Elementary and Secondary Education.

In DYS, the following job classifications are "certificated" to teach in the State of Missouri: Academic Teacher I/II/III, Special Education Teacher I/III, Vocational Teacher III, and Education Supervisor. In DSS, these are merit employees and the proposed constitutional change would require DSS to reclassify all "certificated" staff as "unclassified" or non-merit employees. These staff would then lose the protections afforded to state employees under the merit system, Chapter 36. In addition, we would have to layoff the current incumbents from their merit positions.

1 CSR 20-1.040(2) sets forth the job classifications that may be classified as non-merit employees. Academic Teacher I/II/III, Special Education Teacher I/III, Vocational Teacher III, and Education Supervisor do not fall under the exception to merit status. Only 1% of a department's positions can be filled as unclassified. As DYS currently employs 129 teachers and these positions would not be exempt from the department's 1% restriction on unclassified job titles, DYS could not employ a sufficient number of "certificated" staff unless a change was made to 1 CSR 20-1.040(2). This would create negative impact on DYS, clients and provision of critical services to the youth in DYS custody. If 1 CSR 20-1.040(2) is not amended, DYS would have to pursue contractual arrangements with these staff or comparable vendors. Existing staff, if converted to a contractual agreement, would no longer have the benefits offered to state employees (e.g., insurance, leave, etc.).

With the exception of the Education Supervisor job classification, these job classifications are covered by the DSS/Communication Workers of America (CWA) bargaining unit. The Education Supervisor job classification is not covered by CWA as it is a supervisory/managerial position.

DYS would have to develop a supplement to PERforM, the current statewide performance appraisal system, for assessing such factors as how students in a teacher’s class improved on the WoodCock-Johnson Pre and Post Assessments, GEDs, High School Diplomas, students in post-secondary education upon graduation, students enrolled in vocational education course, etc. Improvement plans would be implemented to rectify any deficiencies. No consequences were offered for failure.

All other components of the bill are covered in the current PERforM evaluation system for all employees. DESE would provide suggested procedures for implementation of this bill or an instrument.

Most of the ideas mentioned in this bill are already covered in local public school teacher evaluation systems in Missouri.

There is no fiscal impact.

Officials from the **Governor's office** indicated there should be no added costs to the their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated if enacted, this initiative petition will have no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated this amendment, if passed, would not directly affect their city's operations; thus, they see no fiscal impact.

Officials from the **City of Kansas City** indicated there is no impact for their city.

Officials from the **City of Kirkwood** indicated there is no impact on their city.

Officials from the **City of St. Joseph** indicated they are not a school system, so this has no impact on their city one way or another.

Officials from the **Cape Girardeau 63 School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution. While we believe this Amendment has wide ranging financial impacts for Missouri state government, a chronically underfunded Department of Elementary and Secondary Education (DESE), and the Cape Girardeau school district, our analysis will focus on the specific costs of **implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Cape Girardeau and DESE as a basis for analysis.

In general the proposed amendment's costs are driven by technology costs and the need to provide quantifiable and objective data on each Missouri student, in every subject as a basis for evaluation of educators. **A proven and scientifically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed tests for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the cost of testing for every child in every subject. The Cape Girardeau school district would not be able to create a test for every subject with the level of validity required. Therefore, Cape Girardeau assumes the state of Missouri would develop and cover the administrative costs for the required tests. Given the assumptions above we believe reasonable and accurate summaries of the costs are as follows:

Summary of costs for Cape Girardeau School District

	Initial cost	Annual cost
Pre-K, K, and 1st grade testing Table 1	$12,164	$4,935
Training for Pre-K, K and 1st grade teachers	Not included	Not included
Grades 2-12 test development and administration	State pays	State pays
District pays grades 2-8 additional tests Table 2	$24,200	$24,200
District pays grades 9-12 additional tests Table 3	$38,894	$38,894

Evaluation costs Table 4 and Table 5	$31,476	$13,276
Technology Table 6	$2,566,375	$24,650
Increased bandwidth required for more tests	Not included	Internet access$
Total estimate of costs included here	**$2,673,109**	**$105,955**

To arrive at the number of students per grade in this document, we took the 2013 total number of pre-K-12 students, subtracted the number of pre-K students, then divided the remainder by 13 to get the average number of students by grade for grades K-12. While the number of students in a given grade will vary some each year, over time the averages provide a reasonable number on which to base our estimated costs.

Costs for pre-K, K and 1st grade testing

Administering assessments for pre-K through first grade students differs significantly from administering assessments for older students. According to Joann Ralston at DESE, the state of Missouri is currently piloting three assessments, one of which is Brigance Early Childhood. In 2015, current versions will not be available, so costs below are based on the new III screenings. Prices can be found at http://www.curriculumassociates.com/products/detail.aspx?title=BrigEC-Screens3#ordernow.

Each teacher would need to be trained in administering the assessments, have a testing manual, data sheet for each student each time the test is administered, and use of the online data management system. Each teacher needs a manual because this assessment is done by observing and interacting with students over a six week period. The desirable class size for pre-K to first grade is 15 to 17 students, but we are using a class size of 20 for purposes of this calculation.

Table 1: Costs for pre-K to first grade pre- and post-testing

Grade	Number of students	Data sheet: 2 per year	Online manage-ment system	Teacher manual at $189	Total per student Year 1	Total per grade first year	Total annual costs * Per student	Total annual cost
Pre-K	195	$2.16	$3.50	$9.45	$15.11	$2,946	$6.13	$1,195
K	305	$2.16	$3.50	$9.45	$15.11	$4,609	$6.13	$1,870
1	305	$2.16	$3.50	$9.45	$15.11	$4,609	$6.13	$1,870
					Total	**$12,164**		**$4,935**

* Assumes replacing teacher manuals for new hires at 5% per year, plus online system and data sheets.

Cost Cape Girardeau school district would pay to DESE for tests: Cost estimates are based on current charge to districts for MAP tests, and testing every student in every subject, with pre-tests as necessary. Costs for districts for grades 3 though 8 tests can be found at http://dese.mo.gov/divimprove/assess/documents/asmt-gl-oe-cover-letter-2013.pdf. The state basically charges $1.80 per grade level for two tests, or $.90 per test.

Table 2 Costs Cape Girardeau would pay to DESE for elementary and middle school tests

Grade	Total students	Cost per test	District wide total one subject	Number of subjects per student	Statewide total
2	305	$0.90	$275	9	$2,475
2	305	$0.90	$275	9 pre-tests	$2,475
3	305	$0.90	$275	9	$2,475
4	305	$0.90	$275	9	$2,475
5	305	$0.90	$275	9	$2,475
6	305	Free for math and CA now	$275 for additional subjects	9	$2,475
7	305	$0.90	$275	13	$3,575
7	305	$0.90	$275	4 pre-tests	$1,100
8	305	$0.90	$275	13	$3,575
8	305	$0.90	$275	4 pre-tests	$1,100
Total	2,950			Total	**$24,200**

Cape Girardeau high school students take eight classes a day, one or more of which are semester courses. Older students take more semester courses. Costs for districts can be found at http://dese.mo.gov/divimprove/assess/eoc.html. The state charges $1.80 per test. DESE does not currently charge for the high school end-of-course tests that are not yet required, but this initiative would make every test required, so Cape Girardeau would have to pay for each test. The current cost is based on end-of-course tests required for the class of 2016: Algebra I, Biology, English I, English II, American History and American Government.

Table 3 Costs Cape Girardeau School District would pay to DESE for high school tests

Grade	Students	Cost per test	Cape Girardeau District wide one test	Number of subjects (pre- and post-tests)	Cape Girardeau total

9	305	$1.80	$549	8 x 2 tests	$9,882
10	305	$1.80	$549	8 x 2 tests	$9,882
11	305	$1.80	$549	9 x 2 tests	$10,980
12	305	$1.80	$549	9 x 2 tests	$10,980
				Total	$41,724
				Subtract current cost of 6 tests per graduate	$2,830
				Total new cost	**$38,894**

Costs for adopting DESE approved evaluation system

Sections 3(f) and 3(h) state that DESE must approve the evaluation system of local school districts. DESE's current Missouri Model Educator Evaluation System sets forth seven essential principles. One of these principles states: "The system acknowledges evaluator training as a highly significant factor for reliably evaluating performance." It is reasonable to assume any DESE approved evaluation system will have to show their evaluators were sufficiently trained. Those who evaluate teachers, principals, or assistant superintendents would all need to be trained under this proposed amendment.

Missouri's ESEA Waiver requires Missouri school districts to adopt an educator evaluation system that incorporates the seven essential principles, including training for evaluators and use of evaluation results in employment decisions. However, the proposed amendment is far more prescriptive about the weight and use of evaluations. This heightened importance will eliminate the option available under the waiver to use training programs of lower quality and therefore lower cost.

The University of Missouri now offers training for evaluators of teachers, so we know how much it costs to train evaluators and the data services necessary to track the data needed for evaluations. It is reasonable to assume the same costs for evaluators of administrative personnel who hold a certificate to teach in Missouri.

Current charges from the Network for Educator Effectiveness at the University of Missouri are given below. Marc Doss, director of the Heart of Missouri Regional Professional Development Center that operates the Network, supplied the costs. While teacher leaders can also be trained and serve as evaluators, the table below uses the average number of current principals and superintendents over time in the calculations.

First year costs include initial evaluator training:
$1300 each for the first 6 in the district
$1000 for the 7th -12th evaluator in the district
$800 for the 13th-20th evaluator in the district
We use a conservative estimate of $1100 per evaluator as an average in the calculations below.

First year and recurring annual cost for data services, including teacher professional development materials, evaluator access, teacher database, building and district reports, and teacher data file preparation is $12 per certificated staff. Since school counselors and librarians are no longer required to hold a certificate to teach, they are not included in the figures. Any counselors or librarians who do hold a certificate to teach would need to be added to the number of teachers, which would increase the cost.

Each evaluator needs an annual re-certification, at a cost of $300. In addition, some new evaluators will need to receive training each year across the state. Few districts would have more than 6 new evaluators in one year, so the cost would be $1300 per evaluator.

Table 4 District-wide first year costs

	Cost per	Personnel number	Total cost
Training for evaluators Principals, superintendents, and assistants	$1,100	24	$26,400
Data Services for record-keeping, per person evaluated: Teachers, principals, assistant superintendents	$12	423	$5,076
		Total	**$31,476**

Table 5 Ongoing annual costs

	Cost per	Personnel number	Total cost
Training for new evaluators	$1,300	1	$1,300
Refresher training	$300	23	$6,900
Data Services	$12	423	$5,076
		Total	**$13,276**

Technology for administering assessments

This proposed amendment would begin in July 2015. New assessments for the common core are piloting now, with full implementation in 2014. The new assessments are computer-based. The Smarter Balanced Assessment Consortium will offer paper-based tests only for the first three years. (see Appendix B) It is reasonable to assume any new tests developed for additional subjects and courses would also be computer based, as all testing developers are moving to computer-based tests. They are piloting this year, and by the time this proposed amendment begins in July 2015, the sun will be setting on paper-based tests. Requiring additional tests will further strain school capacity.

Currently, the eight high school end-of-course tests are computer-based. Cape Girardeau schools close down all computer labs at the high school during EOC testing because all the district bandwidth is needed for the testing. In Cape Girardeau, teachers cannot use the Internet to stream instructional video during EOC testing. Cape Girardeau is struggling to afford the technology infrastructure and devices required to add computer-based tests for 3rd-8th grade math and English language arts in 2014-2015. Cape Girardeau must add Internet bandwidth and add the ability to connect many more devices at once. Most often the least expensive way is to go wireless.

Cape Girardeau Public School's Technology Department is researching devices that meet testing specifications.

- MacBooks – device $945, software $80, accessories $50 – Total cost $1,075
- PC – device $650, software $25, accessories – Total cost $725

Current tests for math and English language arts require several hours for each subject. The new tests that begin in 2014 will take a substantial amount of computer time: 6 to 7.5 hours for math and 6 to 7.5 hours for English language arts for each grade taking the assessment. *

When you move to testing every subject for every child, you will need a 1 to 1 ratio of computer device to student. Cape Girardeau has researched the computer device costs for a 1:1 computer to student ratio. Our cost for computers would be $725 per student.

Additional Internet capacity would be required to meet the demands of more testing. Wireless technology would be less expensive than running enough cable for 1:1 computing. Garret Miller, director of technology for Jefferson City Public Schools, supplied the following information:

> We estimate approximately $1000 per classroom to meet the density requirements for a 1:1 deployment, as that forces one WiFi Access Point per classroom. This dollar amount includes the cost of the Access Point, the license for the controller managing it, and the installation of the network cable. Additional factors that determine overall costs are network switches needed to accommodate each network cable run to each access point.

The cost of periodic replacement of every device as current devices become outdated and unable to meet new technical requirements are not included here.

Table 6 Required technology for the Cape Girardeau School District

Number of students/devices needed for 1:1 Grades 2-12	Number of classrooms at 25 students per class	Cost per device	Annual replace-ment 1% of devices	Wireless cost per classroom	Initial cost	Annual cost
3,355		$725			$2,432,375	
3,355	134			$1,000	$134,000	
3,355		$725	34			$24,650
				Total	**$2,566,375**	**$24,650**

Summary of costs for Cape Girardeau School District

	Initial cost	Annual cost
Pre-K, K, and 1st grade testing Table 1	$12,164	$4,935
Training for Pre-K, K and 1st grade teachers	Not included	Not included
Grades 2-12 test development and administration	State pays	State pays
District pays grades 2-8 additional tests Table 2	$24,200	$24,200
District pays grades 9-12 additional tests Table 3	$38,894	$38,894
Evaluation costs Table 4 and Table 5	$31,476	$13,276
Technology Table 6	$2,566,375	$24,650
Increased bandwidth required for more tests	Not included	Internet access$
Total estimate of costs included here	**$2,673,109**	**$105,955**

Officials from the **Hannibal 60 School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution. While we believe this Amendment has wide ranging financial impacts for Missouri state government, a chronically underfunded Department of Elementary and Secondary Education (DESE), and the Hannibal school district, our analysis will focus on the specific costs of **implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Hannibal and DESE as a basis for analysis.

In general the proposed amendment's costs are driven by technology costs and the need to provide quantifiable and objective data on each Missouri student, in every subject as a basis for evaluation of educators. **A proven and scientifically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed tests for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the cost of testing for every child in every subject. The Hannibal school district would not be able to create a test for every subject with the level of validity required. Therefore, Hannibal assumes the state of Missouri would develop and cover the administrative costs for the required tests. Given the assumptions above we believe reasonable and accurate summaries of the costs are as follows:

Summary of costs for Hannibal School District

	Initial cost	Annual cost
Pre-K, K, and 1st grade testing Table 3.1	$9,988	$4,052
Training for Pre-K, K and 1st grade teachers	Not included	Not included
Grades 2-12 test development and administration	State pays	State pays
District pays grades 2-8 additional tests Table 3.3	$20,671	$20,671
District pays grades 9-12 additional tests Table 3.4	$29,126	$29,126

Evaluation costs Table 4.1 and Table 4.2	$32,696	$10,048
Technology Table 4.3	**$1,696,141**	**$15,606**
Increased bandwidth required for more tests	Not included	Internet access$
Total estimate of costs included here	**$1,788,622**	**$79,503**

The Hannibal School District:

The Hannibal School District #60 is rated "accredited with distinction in performance" by the Missouri Department of Elementary and Secondary Education. Additional accreditation comes from the North Central Association of Colleges and Schools at the career center.

The district features a grade configuration of pre-kindergarten, kindergarten and grades one through five in its elementary schools, grades six through eight in its middle school, and grades nine through twelve in its high school. The area career and technical center is also located on school district property. The district is comprised of five elementary attendance centers including Eugene Field, Mark Twain, Oakwood, Stowell, and Veterans. All elementary schools are organized as pre-kindergarten through fifth grade.

Staff members in the district number 564 including 329 certificated and 238 noncertificated members. Of the 329 certificated staff members, 59.4 percent are at or above the master's degree level. The average teaching experience level in the district is 12.7 years.

Special programs in early childhood education and parenting, guidance and counseling services, health programs, and special education programs are a vital part of the total program of the Hannibal School District. Also provided are remedial services, both during the school term and during a summer school program. A summer enrichment program is also offered to all students. In addition to these programs, a strong well-

rounded, extracurricular program including athletics, performing and visual arts, and publications is offered by the district.

There is a strong relationship between the school and community as evidenced by strong parental involvement, support, and partnership with community organizations. Each elementary and the middle school have active parent-teacher organizations and strong booster organizations exist for band, chorus, and athletics. Success in the activity programs and competitions is a source of community pride.

ENROLLMENT TRENDS

The school district enrollment has been steady the past ten years. Enrollment projects indicate a slight but steady increase for the next ten years. There is a possibility of a greater increase in population of school age children if rapid economic growth in the Hannibal area occurs.

To arrive at the number of students per grade in tables 1, 2, and 3 of this document, we took the 2013 total number of pre-K-12 students, subtracted the number of pre-K students, then divided the remainder by 13 to get the average number of students by grade for grades K-12. While the number of students in a given grade will vary some each year, over time the averages provide a reasonable number on which to base our estimated costs.

OTHER DISTRICT INFORMATION AND FACTS:

- budget for 2011-2012 school year is $31,777,914
- sources of revenues are local and county (45.8%), state (35.9%), and federal (18.3%).
- assessed valuation for 2012 is $287,587,863 and the current tax levy is $3.4199
- enrollment is 3,538 for the 2012-2013 school year.

- teacher salary range for 2012-2013 is $31,400 to $55,630 and the average teacher salary is $40,017

Costs for pre-K, K and 1st grade testing

Administering assessments for pre-K through first grade students differs significantly from administering assessments for older students. According to Joann Ralston at DESE, the state of Missouri is currently piloting three assessments, one of which is Brigance Early Childhood. In 2015, current versions will not be available, so costs below are based on the new III screenings. Prices can be found at http://www.curriculumassociates.com/products/detail.aspx?title=BrigEC-Screens3#ordernow.

Each teacher would need to be trained in administering the assessments, have a testing manual, data sheet for each student each time the test is administered, and use of the online data management system. Each teacher needs a manual because this assessment is done by observing and interacting with students over a six week period. The desirable class size for pre-K to first grade is 15 to 17 students, but we are using a class size of 20 for purposes of this calculation.

Table 1: Costs for pre-K to first grade pre- and post-testing

Grade	Number of students	Data sheet: 2 per year	Online manage-ment system	Teacher manual at $189	Total per student Year 1	Total per grade first year	Total annual costs * Per student	Total annual cost
Pre-K	139	$2.16	$3.50	$9.45	$15.11	$2,100	$6.13	$852
K	261	$2.16	$3.50	$9.45	$15.11	$3,944	$6.13	$1,600
1	261	$2.16	$3.50	$9.45	$15.11	$3,944	$6.13	$1,600
					Total	**$9,988**		**$4,052**

* Assumes replacing teacher manuals for new hires at 5% per year, plus online system and data sheets.

Cost Hannibal school district would pay to DESE for tests: Cost estimates are based on current charge to districts for MAP tests, and testing every student in every subject, with pre-tests as necessary. Costs for districts for grades 3 though 8 tests can be found at http://dese.mo.gov/divimprove/assess/documents/asmt-gl-oe-cover-letter-2013.pdf. The state basically charges $1.80 per grade level for two tests, or $.90 per test.

Table 2 Costs Hannibal would pay to DESE for elementary and middle school tests

Grade	Total students	Cost per test	District wide total one subject	Number of subjects per student	Statewide total
2	261	$0.90	$235	9	$2,114
2	261	$0.90	$235	9 pre-tests	$2,114
3	261	$0.90	$235	9	$2,114
4	261	$0.90	$235	9	$2,114
5	261	$0.90	$235	9	$2,114
6	261	Free for math and CA now	$235 for additional subjects	9	$2,114
7	261	$0.90	$235	13	$3,054
7	261	$0.90	$235	4 pre-tests	$940
8	261	$0.90	$235	13	$3,054
8	261	$0.90	$235	4 pre-tests	$940
Total	2,610			Total	**$20,671**

Hannibal high school students take seven classes a day, one or more of which are semester courses. Older students take more semester courses. Costs for districts can be found at http://dese.mo.gov/divimprove/assess/eoc.html. The state charges $1.80 per test. DESE does not currently charge for the high school end-of-course tests that are not yet required, but this initiative would make every test required, so Hannibal would have to pay for each test. The current cost is based on end-of-course tests required for the class of 2016: Algebra I, Biology, English I, English II, American History and American Government.

Table 3 Costs Hannibal School District would pay to DESE for high school tests

Grade	Students	Cost per test	Hannibal District wide one test	Number of subjects (pre- and post-tests)	Hannibal total
9	261	$1.80	$470	8 x 2 tests	$7,517
10	261	$1.80	$470	8 x 2 tests	$7,517
11	261	$1.80	$470	9 x 2 tests	$8,456
12	261	$1.80	$470	9 x 2 tests	$8,456
				Total	$31,946
				Subtract current cost of 6 tests per graduate	$2,820
				Total new cost	**$29,126**

Costs for adopting DESE approved evaluation system

Sections 3(f) and 3(h) state that DESE must approve the evaluation system of local school districts. DESE's current Missouri Model Educator Evaluation System sets forth seven essential principles. One of these principles states: "The system acknowledges evaluator training as a highly significant factor for reliably evaluating performance." It is reasonable to assume any DESE approved evaluation system will have to show their evaluators were sufficiently trained. Those who evaluate teachers, principals, or assistant superintendents would all need to be trained under this proposed amendment.

Missouri's ESEA Waiver requires Missouri school districts to adopt an educator evaluation system that incorporates the seven essential principles, including training for evaluators and use of evaluation results in employment decisions. However, the proposed amendment is far more prescriptive about the weight and use of evaluations. This heightened importance will eliminate the option available under the waiver to use training programs of lower quality and therefore lower cost.

The University of Missouri now offers training for evaluators of teachers, so we know how much it costs to train evaluators and the data services necessary to track the data needed for evaluations. It is reasonable to assume the same costs for evaluators of administrative personnel who hold a certificate to teach in Missouri.

Current charges from the Network for Educator Effectiveness at the University of Missouri are given below. Marc Doss, director of the Heart of Missouri Regional Professional Development Center that operates the Network, supplied the costs. While teacher leaders can also be trained and serve as evaluators, the table below uses the average number of current principals and superintendents over time in the calculations.

First year costs include initial evaluator training:
$1300 each for the first 6 in the district
$1000 for the 7th -12th evaluator in the district
$800 for the 13th-20th evaluator in the district
The Hannibal school district averages 1 administrator per 210 students (DESE 2012). We use a conservative estimate of $1100 per evaluator as an average in the calculations below.

First year and recurring annual cost for data services, including teacher professional development materials, evaluator access, teacher database, building and district reports, and teacher data file preparation is $12 per certificated staff. Since school counselors and librarians are no longer required to hold a certificate to teach, they are not included in the figures. Any counselors or librarians who do hold a certificate to teach would need to be added to the number of teachers, which would increase the cost.

Each evaluator needs an annual re-certification, at a cost of $300. In addition, some new evaluators will need to receive training each year across the state. Few districts would have more than 6 new evaluators in one year, so the cost would be $1300 per evaluator.

Currently, the Network for Educator Effectiveness does not have the capacity to train all Missouri evaluators by fall of 2015. Other commercial evaluator training systems are available. When the quality of the training is comparable, the cost for these commercial systems is higher than NEE. Some charge as much as $45* annually per person evaluated for data services, rather than the $12 charged by NEE for the same service.
*Teachscape/Danielson's Framework

Table 4 District-wide first year costs

	Cost per	Personnel number	Total cost
Training for evaluators Principals, superintendents, and assistants	$1,100	17	$18,700
Data Services for record-keeping, per person evaluated: 329 Certified Staff Hannibal School District.	$12	329	$3,948
		Total	**$22,648**

Table 5 Ongoing annual costs

	Cost per	Personnel number	Total cost
Training for new evaluators	$1300	1	$ 1300
Refresher training	$300	16	$ 4800
Data Services	$12	329	$ 3948
		Total	**$ 10,048**

*The turnover is estimated at 1 administrator per year.

Technology for administering assessments

This proposed amendment would begin in July 2015. New assessments for the common core are piloting now, with full implementation in 2014. The new assessments are computer-based. The Smarter Balanced Assessment Consortium will offer paper-based tests only for the first three years. (see Appendix B) It is reasonable to assume any new tests developed for additional subjects and courses would also be computer based, as all testing developers are moving to computer-based tests. They are piloting this year, and by

the time this proposed amendment begins in July 2015, the sun will be setting on paper-based tests. Requiring additional tests will further strain school capacity.

Currently, the 8 high school end-of-course tests are computer-based. Hannibal is struggling to afford the technology infrastructure and devices required to add computer-based tests for 3rd-8th grade math and English language arts in 2014-2015. Hannibal must add Internet bandwidth and add the ability to connect many more devices at once. Although wireless may not always be the least expensive way to go, much of the technology we are adding or being required to add does require wireless.

Jefferson City Public Schools are researching devices that meet testing specifications. Garrett Miller, Director of Technology for Jefferson City Public Schools, provided the data used here. The three least expensive cost options include:

- iPad2 at $399 plus $60 for keyboard/dock to handle typing and charging = $459 total
- Citrix VDI at $550 for standard desktop, not counting additional furniture needed
- Vmware View at $750 not counting switch upgrades, additional furniture, and Microsoft Office licensing, estimated at $80,000 for JCPS

For our calculations, we use the lowest cost for the devices needed to accommodate the additional testing which would be required by this proposed amendment.

Current tests for math and English language arts require several hours for each subject. The new tests that begin in 2014 will take a substantial amount of computer time: 6 to 7.5 hours for math and 6 to 7.5 hours for English language arts for each grade taking the assessment. *

Jefferson City determined for grades 3-5 testing of 2,226 students, they would need 1000 devices to complete just math and English language arts testing within the testing window, given the length of time required for each test. Using this ratio of 2226/1000, we see the need for 1 device for every 2.2 students to test just two (2) subjects. When you move to testing every subject for every child, you will need a 1 to 1 ratio of computer device to student.

* http://www.smarterbalanced.org/wordpress/wp-content/uploads/2011/12/Smarter-Balanced-Preliminary-Test-Blueprints.pdf

Additional Internet capacity would be required to meet the demands of more testing. Wireless technology would be less expensive than running enough cable for 1:1 computing. Garret Miller, director of technology for Jefferson City Public Schools, supplied the following information:

> We estimate approximately $1000 per classroom to meet the density requirements for a 1:1 deployment, as that forces one WiFi Access Point per classroom. This dollar amount includes the cost of the Access Point, the license for the controller managing it, and the installation of the network cable. Additional factors that

determine overall costs are network switches needed to accommodate each network cable run to each access point.

Miller says JCPS has over 300 iPads in use and they have replaced three (3) due to cracked screens. This represents a 1% replacement rate per year. This estimate is shown as an annual cost in Table 4.3. The cost of periodic replacement of every device as current devices become outdated and unable to meet new technical requirements are not included here.

Table 6 Required technology for the Hannibal School District

Number of students/devices needed for 1:1 Grades 2-12	Number of classrooms at 25 students per class	Cost per device	Annual replacement 1% of devices	Wireless cost per classroom	Initial cost	Annual cost
3,399		$459			$1,560,141	
3,399	136			$1,000	$136,000	
3,399		$459	34			$15,606
				Total	**$1,696,141**	**$15,606**

Not included: Maintenance, network switches, technology staff, training for teachers, cost for additional broadband needed

Summary of costs

	Initial cost	Annual cost
Pre-K, K, and 1st grade testing Table 3.1	$9,988	$4,052
Training for Pre-K, K and 1st grade teachers	Not included	Not included
Grades 2-12 test development and administration	State pays	State pays
District pays grades 2-8 additional tests Table 3.3	$20,671	$20,671
District pays grades 9-12 additional tests Table 3.4	$29,126	$29,126
Evaluation costs Table 4.1 and Table 4.2	$32,696	$10,048
Technology Table 4.3	**$1,696,141**	**$15,606**
Increased bandwidth required for more tests	Not included	Internet access$
Total estimate of costs included here	**$1,788,622**	**$79,503**

Officials from **Rockwood R-VI School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution. While we believe this Amendment has wide ranging financial impacts for Missouri state government, a chronically underfunded Department of Elementary and Secondary Education (DESE) and the Rockwood school district, our analysis will focus on the specific costs of **implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Rockwood and DESE as a basis for analysis.

In general, the proposed amendment's costs are driven by technology costs and the need to provide quantifiable and objective data on each Missouri student, in every subject as a basis for evaluation of educators. **A proven and scientifically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed tests for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the cost of testing for every child in every subject. If the Rockwood school district would not be able to create a test for every subject with the level of validity required, tests would need to be purchased. Therefore, Rockwood assumes the state of Missouri would develop and cover the administrative costs for the required tests. Given the assumptions above, we believe reasonable and accurate summaries of the costs are as follows:

Summary of costs for Rockwood School District

	Initial cost	Annual cost
Pre-K, K, and 1st grade testing - Table 1	$54,063	$21,933
Training for Pre-K, K and 1st grade teachers	Not included	Not included
District pays grades 2-8 additional tests - Table 2	$132,742	$132,742
District pays grades 9-12 additional tests - Table 3	$205,142	$205,142
Evaluation costs - Table 4 and Table 5	$119,604	$59,604
Technology - Table 6	$10,112,400	$112,488
Increased bandwidth required for more tests	$25,000	$25,000
Total estimate of costs included here	**$10,648,951**	**$556,909**

The Rockwood School District:

There is an advantage to being a part of the Rockwood School District. This premier school district located in West St. Louis County has high student achievement, outstanding teachers and staff, and great community support.

Our mission of doing whatever it takes to ensure all students realize their potential is at the center of our work. In Rockwood, we want every child to succeed. The Rockwood R-VI school district is one of the top performing school districts in Missouri and the nation. With a graduation rate of 96.0% in 2012, the Department of Elementary and Secondary Education notes our district as "Distinction in Performance with High Achievement", additionally we are one of the best financially managed districts in the United States receiving a Standard & Poor's rating of AAA.

We service a large and diverse population with:

19 Elementary Schools
6 Middle Schools
4 High Schools
10 National Blue Ribbon Schools
14 Missouri Gold Star Schools of Excellence
8 National Schools of Character
9 Missouri Schools of Character
- Separate Campuses for Gifted, Early Childhood and Alternative High School Education

The district's educates and serves over 22,000 students.

To arrive at the number of students per grade in tables 1, 2, and 3 of this document, we took the 2013 total number of pre-K-12 students, subtracted the number of pre-K students, and then divided the remainder by 13 to get the average number of students by grade for grades K-12. While the number of students in a given grade will vary some each year, over time the averages provide a reasonable number on which to base our estimated costs.

Costs for pre-K, K, and 1st grade testing

Administering assessments for pre-K through first grade students differs significantly from administering assessments for older students. According to Joann Ralston at DESE, the state of Missouri is currently piloting three assessments, one of which is Brigance Early Childhood. In 2015, current versions will not be available, so costs below are based on the new III screenings. Prices can be found at http://www.curriculumassociates.com/products/detail.aspx?title=BrigEC-Screens3#ordernow.

Each teacher would need to be trained in administering the assessments, have a testing manual, data sheet for each student each time the test is administered, and use of the

online data management system. Each teacher needs a manual because this assessment is done by observing and interacting with students over a six-week period. The desirable class size for pre-K to first grade is 15 to 17 students, but we are using a class size of 20 for purposes of this calculation.

Table 1: Costs for pre-K to first grade pre- and post-testing

Grade	Number of students	Data sheet: 2 per year	Online manage-ment system	Teacher manual at $189	Total per student Year 1	Total per grade first year	Total annual costs * Per student	Total annual cost
Pre-K	226	$2.16	$3.50	$9.45	$15.11	$3,415	$6.13	$1,385
K	1,676	$2.16	$3.50	$9.45	$15.11	$25,324	$6.13	$10,274
1	1,676	$2.16	$3.50	$9.45	$15.11	$25,324	$6.13	$10,274
					Total	**$54,063**		**$21,933**

* Assumes replacing teacher manuals for new hires at 5% per year, plus online system and data sheets.

Cost Rockwood school district would pay to DESE for tests: Cost estimates are based on the current charge to districts for MAP tests, and testing every student in every subject, with pre-tests as necessary. Costs for districts for grades 3 though 8 tests can be found at http://dese.mo.gov/divimprove/assess/documents/asmt-gl-oe-cover-letter-2013.pdf. The state charges $1.80 per grade level for two tests, or $.90 per test.

Table 2: Costs Rockwood would pay to DESE for elementary and middle school tests

Grade	Total students	Cost per test	District wide total one subject	Number of subjects per student	Statewide total
2	1,676	$0.90	$1,508	9	$13,576
2	1,676	$0.90	$1,508	9 pre-tests	$13,576
3	1,676	$0.90	$1,508	9	$13,576
4	1,676	$0.90	$1,508	9	$13,576
5	1,676	$0.90	$1,508	9	$13,576
6	1,676	$0.90	$1,508	9	$13,576
7	1,676	$0.90	$1,508	13	$19,609
7	1,676	$0.90	$1,508	4 pre-tests	$6,034
8	1,676	$0.90	$1,508	13	$19,609
8	1,676	$0.90	$1,508	4 pre-tests	$6,034
Total	**16,760**			**Total**	**$132,742**

Rockwood high school students take seven classes a day, one or more of which are semester courses. Older students take more semester courses. Costs for districts can be found at http://dese.mo.gov/divimprove/assess/eoc.html. The state charges $1.80 per test. DESE does not currently charge for the high school end-of-course tests that are not yet required, but this initiative would make every test required, so Rockwood would have to pay for each test. The current cost is based on end-of-course tests required for the class of 2016: Algebra I, Biology, English I, English II, American History, and American Government.

Table 3: Costs Rockwood School District would pay to DESE for high school tests

Grade	Students	Cost per test	Rockwood District wide one test	Number of subjects (pre- and post-tests)	Total
9	1,676	$1.80	$3,017	8 x 2 tests	$48,269
10	1,676	$1.80	$3,017	8 x 2 tests	$48,269
11	1,676	$1.80	$3,017	9 x 2 tests	$54,302
12	1,676	$1.80	$3,017	9 x 2 tests	$54,302
				Total	$205,142

Costs for adopting DESE approved evaluation system

Sections 3(f) and 3(h) state that DESE must approve the evaluation system of local school districts. DESE's current Missouri Model Educator Evaluation System sets forth seven essential principles. One of these principles states: "The system acknowledges evaluator training as a highly significant factor for reliably evaluating performance." It is reasonable to assume any DESE approved evaluation system will have to show their evaluators were sufficiently trained. Those who evaluate teachers, principals, or assistant superintendents would all need to be trained under this proposed amendment.

Missouri's ESEA Waiver requires Missouri school districts to adopt an educator evaluation system that incorporates the seven essential principles, including training for evaluators and use of evaluation results in employment decisions. However, the proposed amendment is far more prescriptive about the weight and use of evaluations. This heightened importance will eliminate the option available under the waiver to use training programs of lower quality and therefore lower cost.

The University of Missouri now offers training for evaluators of teachers, so we know how much it costs to train evaluators and the data services necessary to track the data needed for evaluations. It is reasonable to assume the same costs for evaluators of administrative personnel who hold a certificate to teach in Missouri.

Current charges from the Network for Educator Effectiveness at the University of Missouri are given below. Marc Doss, director of the Heart of Missouri Regional

Professional Development Center that operates the Network, supplied the costs. While teacher leaders can also be trained and serve as evaluators, the table below uses the average number of current principals and superintendents over time in the calculations.

First year costs include initial evaluator training:
$1,300 each for the first six (6) evaluators in the district
$1,000 for the 7th -12th evaluator in the district
$800 for the 13th-20th evaluator in the district
The Rockwood school district averages one (1) administrator per 280 students (DESE 2012). We use a conservative estimate of $1,100 per evaluator as an average in the calculations below.

First year and recurring annual cost for data services, including teacher professional development materials, evaluator access, teacher database, building and district reports, and teacher data file preparation is $12 per certificated staff. Since school counselors and librarians are no longer required to hold a certificate to teach, they are not included in the figures. Any counselors or librarians who do hold a certificate to teach would need to be added to the number of teachers, which would increase the cost.

Each evaluator needs an annual re-certification, at a cost of $300. In addition, some new evaluators will need to receive training each year across the state. Few districts would have more than six (6) new evaluators in one year, so the cost would be $1,300 per evaluator.

Currently, the Network for Educator Effectiveness does not have the capacity to train all Missouri evaluators by fall of 2015. Other commercial evaluator training systems are available. When the quality of the training is comparable, the cost for these commercial systems is higher than NEE. Some* charge as much as $45 annually per person evaluated for data services, rather than the $12 charged by NEE for the same service.
*Teachscape/Danielson's Framework

Table 4: District-wide first year costs

	Cost per	Personnel number	Total cost
Training for evaluators Principals, superintendents, and assistants	$1,100	90	$99,000
Data Services for record-keeping, per person evaluated: Teachers, principals, assistant superintendents	$12	1,717	$20,604
		Total	**$119,604**

Table 5: Ongoing annual costs

	Cost per	Personnel number	Total cost
Training for new evaluators	$1,300	turnover* = 12	$15,600
Refresher training	$300	78	$23,400
Data Services	$12	1,717	$20,604
		Total	**$59,604**

*The turnover is estimated at 12% per year.

Technology for administering assessments

This proposed amendment would begin in July 2015. New assessments for the common core are piloting now, with full implementation in 2014. The new assessments are computer-based. The Smarter Balanced Assessment Consortium will offer paper-based tests only for the first three years. (See Appendix B) It is reasonable to assume any new tests developed for additional subjects and courses would also be computer based, as all testing developers are moving to computer-based tests. They are piloting this year, and by the time this proposed amendment begins in July 2015, the sun will be setting on paper-based tests. Requiring additional tests will further strain school capacity.

Currently, the eight (8) high school end-of-course tests are computer-based. Rockwood is facing a large financial commitment to afford the technology infrastructure and devices required to add computer-based tests for 3rd-8th, and 11th grade math and English language arts in 2014-2015. Rockwood must add Internet bandwidth and add the ability to connect many more devices at once. Most often the least expensive way is to go wireless.

Jefferson City Public Schools are researching devices that meet testing specifications. Garrett Miller, Director of Technology for Jefferson City Public Schools, provided some of the data used here. The three least expensive cost options include:

- iPad2 at $399 plus $60 for keyboard/dock to handle typing and charging + $50 AppleCare + $7 mobile device manager = $516 total
- Citrix VDI at $550 for standard desktop, not counting additional furniture needed
- Vmware View at $750 not counting switch upgrades, additional furniture, and Microsoft Office licensing, estimated at $80,000 for JCPS

For our calculations, we use the lowest cost for the devices needed to accommodate the additional testing, which would be required by this proposed amendment.

Current tests for math and English language arts require several hours for each subject. The new tests that begin in 2014 will take a substantial amount of computer time: 6 to

7.5 hours for math and 6 to 7.5 hours for English language arts for each grade taking the assessment. *

Jefferson City determined for grades 3-5 testing of 2,226 students, they would need 1,000 devices to complete just math and English language arts testing within the testing window, given the length of time required for each test. Using this ratio of 2,226:1,000, we see the need for one (1) device for every 2.2 students to test just two (2) subjects. When you move to testing every subject for every child, you will need a 1 to 1 ratio of computer device to student.

* http://www.smarterbalanced.org/wordpress/wp-content/uploads/2011/12/Smarter-Balanced-Preliminary-Test-Blueprints.pdf

Additional Internet capacity would be required to meet the demands of more testing. Wireless technology would be less expensive than running enough cable for 1:1 computing. Garret Miller, director of technology for Jefferson City Public Schools, supplied the following information:

> We estimate approximately $1,000 per classroom to meet the density requirements for a 1:1 deployment, as that forces one WiFi Access Point per classroom. This dollar amount includes the cost of the Access Point, the license for the controller managing it, and the installation of the network cable. Additional factors that determine overall costs are network switches needed to accommodate each network cable run to each access point.

Miller says JCPS has over 300 iPads in use and they have replaced three (3) due to cracked screens. This represents a 1% replacement rate per year. This estimate is shown as an annual cost in Table 4.3. The cost of periodic replacement of every device as current devices become outdated and unable to meet new technical requirements are not included here.

Table 6: Required technology for the Rockwood School District (over 2 years)

Number of students/devices needed for 1:1 Grades 2-12	Number of classrooms at 25 students per class	Cost per device	Annual replacement 1% of devices	Wireless cost per classroom	Initial cost	Annual cost
19,600		$509			$9,976,400	
21,793	136			$1,000	$136,000	
21,793		$516	218			$112,488
				Total	**$10,112,400**	**$112,488**

Not included: Maintenance, network switches, technology staff, training for teachers, and cost for additional broadband needed. The district could use existing computers along with new mobile devices, which would half the cost.

Summary of costs for Rockwood School District

	Initial cost	Annual cost
Pre-K, K, and 1st grade testing - Table 1	$54,063	$21,933
Training for Pre-K, K and 1st grade teachers	Not included	Not included
District pays grades 2-8 additional tests - Table 2	$132,742	$132,742
District pays grades 9-12 additional tests - Table 3	$205,142	$205,142
Evaluation costs - Table 4 and Table 5	$119,604	$59,604
Technology - Table 6	$10,112,400	$112,488
Increased bandwidth required for more tests	$25,000	$25,000
Total estimate of costs included here	**$10,648,951**	**$556,909**

Officials from **Metropolitan Community College** indicated since their college is a political subdivision of the state of Missouri, and not a school district, this petition would have no direct fiscal impact on their college.

Officials from the **University of Missouri** indicated this initiative petition has no financial impact on their university.

The **Missouri Association of School Administrators (submitted by Roger Kurtz)** and the **Missouri National Education Association (submitted by Ann Jarrett)** provided information as opponents of this initiative petition.

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution. While we believe this Amendment has wide ranging financial impacts for Missouri state government, a chronically underfunded Department of Elementary and Secondary Education (DESE), and local government entities, our analysis will focus on the specific costs of **developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from DESE and assessment RFPs as a basis for analysis.

In general the proposed amendment's costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject as a basis for evaluation of educators. **A proven and scientifically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed tests for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the cost of testing for every child in every subject. Given the assumptions above we believe reasonable and accurate summaries of the costs are as follows:

Summary of costs

	Initial cost	Annual cost
Set content standards for new tests	Not included	Periodic revisions
Develop new tests, grades 2-12 Table 2	$5,123,873,875	Annual revisions
Pre-K, K, and 1st grade testing Table 3.1	$2,434,840	$987,794
Training for Pre-K, K and 1st grade teachers	Not included	Not included
Grades 2-8 additional tests Table 3.3	$4,514,400	$4,514,400
Grades 9-12 additional tests Table 3.4	$7,365,600	$7,365,600
DESE administer tests Table 3.5	$74,454,588	$74,454,588
Evaluation costs Table 4.1 and Table 4.2	$ 5,293,120	$ 2,395,220
Technology Table 4.3	$362,274,000	$3,332,340
Increased bandwidth required for more tests	Not included here	Internet access$
Total estimate of costs included here	**$5,580,210,423**	**$93,049,942**

Test Development and Implementation Costs and Considerations

Mr. Ellinger's submission requires every school district to develop a DESE approved performance based evaluation system a majority of which is based on "quantifiable student performance data":

> Section 3(f). Effective beginning July 1, 2015, and notwithstanding any provisions of this constitution, any school district receiving any state funding or local tax revenue shall develop and implement a standards based performance evaluation system approved by the Missouri Department of Elementary and Secondary Education. The majority of such evaluation system shall be based upon quantifiable student performance data as measured by objective criteria and such evaluation system shall be used in (1) retaining, promoting, demoting, dismissing, removing, discharging and setting compensation for certificated staff; (2) modifying or terminating any contracts with certificated staff; and (3) placing on leave of absence any certificated staff because of a decrease in pupil enrollment, school district reorganization or the financial condition of the school district.

Our assumption is the state would develop a series of "template" standards of evaluation and guide the development of testing tools that could be utilized by individual districts.

Required tests and test development

This requires the state to make assessments available in all subjects. Districts will recognize that the language allows them to create their own unique assessments, but no districts would be able to fund the development of tests to meet the reliability, validity and scope required by this proposal. Since the results of these assessments would be the major factor in employment decisions, districts will require defensible research-based measures with proven validity. Individual districts cannot fund this test development; it will have to be done at the state level. Notably, the validity of Missouri assessments for use in teacher evaluations has not been studied.

Currently, the state of Missouri offers assessments in two subjects, math and communication arts, for students in grades 3-11. Science tests are available for 5th and 8th grade, and high school tests for biology and American government. The state paid for the development of the tests, including item and task specification, item authoring, bias and sensitivity checks, psychometric work, piloting, lay out and printing for the paper based 3-8 tests, and

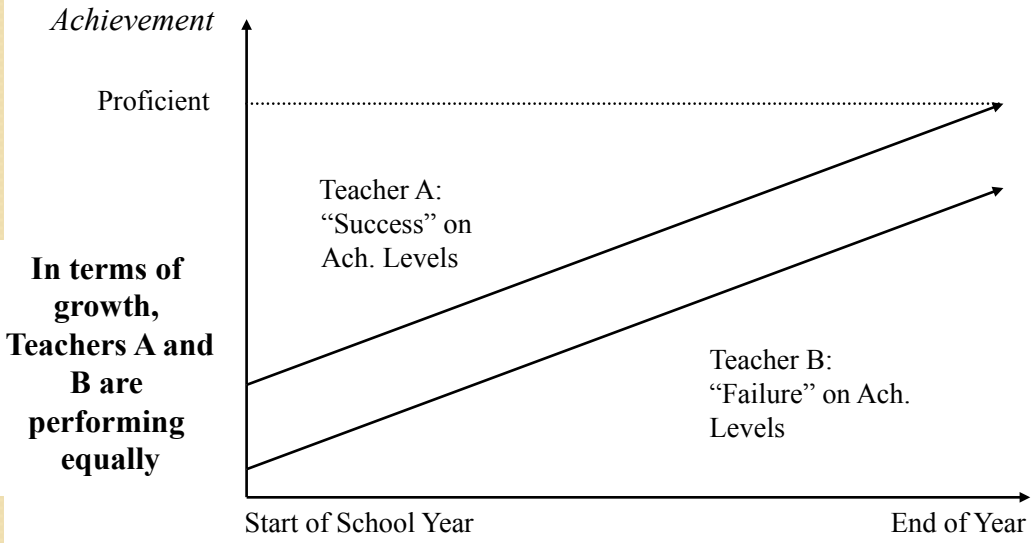
computer adaptive work for the high school tests. The state pays for the scoring of these tests, at .06 per test.

In addition, tests need ongoing revisions through the use of parallel questions, so the questions are not the same from year to year, but the knowledge and skills tested remains the same.

In order to evaluate teachers based on student assessments, you must first have baseline achievement data on each student for that subject. Current growth models can only provide growth data for 4th – 8th grade students in math and communication arts, because there is no baseline data for third graders. High school courses each consist of distinct content and scores on one course cannot be considered a starting point for another.

Massachusetts began to use student growth measured by state assessments in teacher evaluations, and found current assessments only produced data for 17% of teachers. The language in 3 (f) would require annual assessments of pre-K to 8th grade students in every subject. High school courses and some middle school courses would require pre-tests at the beginning of the course as well as end of course tests because the content is course-specific. Standards would have to be established for each subject and each course. In order to use test scores in teacher evaluation, it is necessary to know where students are when they enter the teacher's classroom.

Growth vs. Proficiency Models

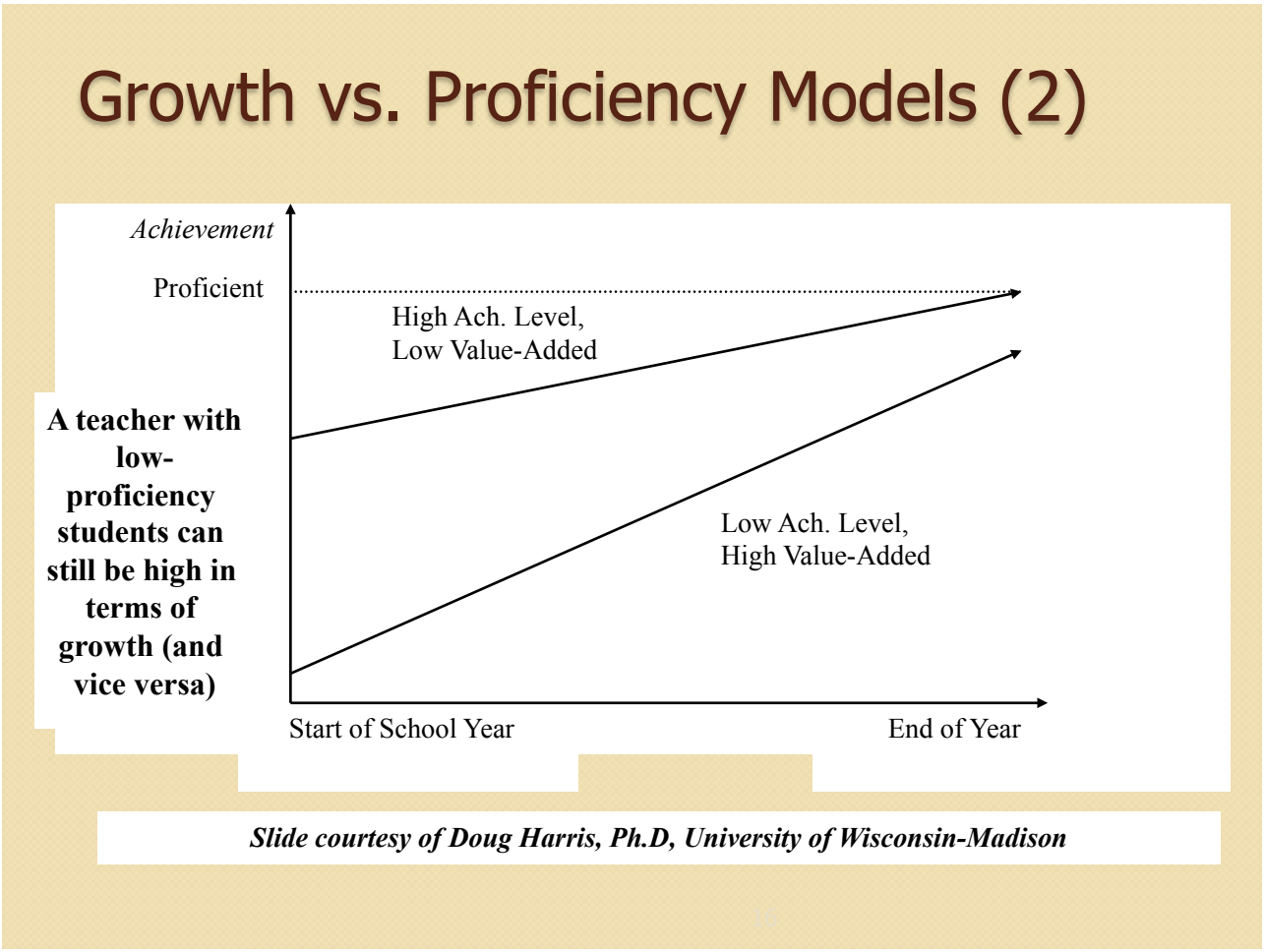


In terms of growth, Teachers A and B are performing equally

Slide courtesy of Doug Harris, Ph.D, University of Wisconsin-Madison

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As illustrated above, two teachers can have students who grow equally during the school year, but if you only consider the final score of the students, one could be considered effective and the other not effective.



In the illustration above, the students who had the lowest scores at the end of the year grew significantly more during the school year than the students who scored proficient. This is another way to show the importance of knowing how much students know in a given subject before using scores for teacher evaluation.

Most of the following list of courses were taken from the Missouri School Improvement Program 5 Resource Standards, found at http://dese.mo.gov/qs/documents/MSIP5_Resource_Standards_Crosswalk.pdf. A few courses were added that some schools offer above those required.

Table 1

	Elementary Courses	Middle School Courses	Pre-test required
1	Math	Math	
2	Reading	Reading	
3	Language Arts	Language Arts	
4	Social Studies/History	Social Studies/History	Pre-test
5	Science by grade	Science	
6	Art by grade	Art	
7	Physical Education	Physical Education	
8	Health by grade	Health	
9	Foreign Language	Foreign Language	Pre-test
10	Career Awareness	Career Education	Pre-test
11	Library Skills	Computer Literacy	Pre-test
12	Instrumental Music I and II	Instrumental Music	Pre-test
13	Music by grade	Vocal Music	
14		Agriculture	Pre-test
15		Family and Consumer Science	Pre-test
16		Industrial Technology	Pre-test
17		Speech	Pre-test
18		Algebra 1	Pre-test

Tests needed under proposed ballot initiative

Middle school students are required to take the four core subjects, physical education, health, art and music. Some students will also have a stand-alone reading course. This totals nine subjects for one year. Seventh and eighth graders must, in addition, have access to four exploratory classes, bringing the total courses for them to 13. Some of these courses would only last for 6 weeks, others may last a semester. All schools do not offer the same four exploratory classes, but tests for each course offered would be required. Pre-tests would be required for nine of these courses, as not all students enrolled would have taken prior coursework in that area. In the case of social studies/history, students would have taken prior social studies courses, but in 7th and 8th grade, social studies classes are content-specific, for example, civics and geography one year, American History up to the Civil War the next.

High school courses would require a pre-test and an end-of-course test. Jefferson City High School offers 236 unique courses in 2012-13. That would require the development and administration of 472 tests, only 8 of which are currently available.

Table 1.2 Number of tests to develop per grade

Grade	# courses	- current tests	+ pre-tests needed	Total new tests needed
2	11°	0	11	22
3	11	2	0	9
4	12 *	2	1	11
5	13°°	2**	0	10
6	12	2	0	10
7	17°°°	2	9	24
8	18	3***	10	25
9-12	236	8	236	464
				575 total new tests

This table assumes tests for all subjects in grades 2-6 could be created which are vertically scaled. This may not be possible, as different content areas within each discipline are covered in different grades. Social studies provides a good example of an area where this assumption is likely erroneous. Geography many be the focus one year, world history another, and American history another year.

°13 from list above, minus career awareness, which is built into the other subjects, and Instrumental Music which starts in 4th grade

* add Instrumental Music I

°° add Instrumental Music II

** Currently, 5th graders take a science test, but new science tests would have to be developed that were vertically scaled and designed to be taken annually

°°°Algebra I test for 7th graders and 8th graders would be the same, so only included in 8th grade count

*** Algebra I test exists, but not a pre-test. 8th grade science test would need replaced, see 5th grade note

To find the cost of developing high quality assessments to generate "quantifiable student performance data as measured by objective criteria," Section 3(f), it is reasonable to use the costs currently incurred to develop new assessments of the Common Core State Standards. The Missouri State Board of Education adopted these standards. Missouri is one of 23 states in the Smarter Balanced Assessment Consortium. SBAC is developing assessments for math and English language arts for grades 3 through 8, and once in high school with a grant awarded by the U. S. Department of Education, with funding provided by the American Recovery and Reinvestment Act. In Table 2, we show the costs incurred and published as of March 22, 2013. When similar ballot language was submitted last year, we used the costs known up to that time, only RFP 01 through 09 and RFP 14.

All costs are taken from RFPs on Smarter Balanced Assessment Consortium website at http://www.k12.wa.us/SMARTER/Jobs-Contracts.aspx. For each RFP, go to 8. Funding. Each RFP states: "OSPI has estimated the cost of this work as not to exceed $XXXX for this project. Proposals in excess of (same number) will be rejected as non-responsive and

will not be evaluated." Michael Middleton at SBAC told Ann Jarrett by phone that contracts were awarded for the amounts on the RFPs. Those numbers are stated in Table 2.

Table 2. Test development costs:

Project	Details	Bid Cost
SBAC RFP No. 24	Sustainability Cost Modeling	$80,000
SBAC RFP No. 23	Digital Library with Formative Assessment Practices and Professional Learning Resources for Educators	$8,400,000
SBAC RFP No. 2012-21	Informal Solicitation for Translation Services	$19,500
SBAC RFP No. 12	Achievement Level Descriptors	$358,400
SBAC RFP No. 11	Test Delivery System	$14,000,000
SBAC RFP No. 22	Organization Development and Business Process Consulting	$350,000
SBAC RFP No. 19	Test Administration	$2,167,881
SBAC RFP No. 19B	Smarter Balanced Test Administration for the Field Test	$4,847,798
SBAC RFP No. 16/17	Field Test Item & Task Writing and Pilot & Field Test Scoring	$55,100,000
SBAC RFP No. 15	Report System Development	$4,874,229
SBAC RFP No. 14	SBAC Pilot Item/Task/Stimulus Research, Development, and Reviews	$19,000,000
SBAC RFP No. 09	Test Blueprint and Computer Adaptive Test Specifications	$2,200,000
SBAC RFP No. 07	Item Authoring and Item Pool Application	$1,988,000
SBAC RFP No. 08 1-2012 to 10-2013	Participation and Training Materials	$739,392
SBAC RFP No. 05	Psychometric Services	$3,500,000
SBAC RFP No. 06	Development of Accessibility and Accommodations Policies and Materials	$930,000
SBAC RFP No. 04	SMARTER Balanced	$1,500,000

	Assessment Consortium Request for Proposals to Develop Item and Task Specifications, Style Guide, Bias and Sensitivity Guidelines, and Accessibility and Accommodations Guidelines	
SBAC RFP No. 03	SMARTER Balanced Assessment Consortium II Systems Architecture	$2,000,000
SBAC RFP No. 02	IT Readiness Tool for SBAC and PARCC (word)	$500,000
SBAC RFP No. 01	Smarter Balanced Assessment Communications RFP	$2,200,000
Total for Math and CA	14 tests: two per grade for 3-8 grades and 11th grade	$124,755,200
Cost per test to develop	(line above divided by 14)	$8,911,085
Cost for 575 new tests (line above X 575)	(line above X 575)	**$5,123,873,875**

Costs for pre-K, K and 1st grade testing

Administering assessments for pre-K through first grade students differs significantly from administering assessments for older students. According to Joann Ralston at DESE, the state of Missouri is currently piloting three assessments, one of which is Brigance Early Childhood. In 2015, current versions will not be available, so costs below are based on the new III screenings. Prices can be found at http://www.curriculumassociates.com/products/detail.aspx?title=BrigEC-Screens3#ordernow.

Each teacher would need to be trained in administering the assessments, have a testing manual, data sheet for each student each time the test is administered, and use of the online data management system. Each teacher needs a manual because this assessment is done by observing and interacting with students over a six week period. The desirable class size for pre-K to first grade is 15 to 17 students, but we are using a class size of 20 for purposes of this calculation.

Table 3.1 Costs for pre-K to first grade pre- and post-testing

Grade	Number of students	Data sheet: 2 per year	Online manage-ment system	Teacher manual at $189	Total per student Year 1	Total per grade first year	Total annual costs * Per student	Total annual cost
Pre-K	29,141 (2011)	$2.16	$3.50	$9.45	$15.11	$440,320	$6.13	$178,634
K	66,000	$2.16	$3.50	$9.45	$15.11	$997,260	$6.13	$404,580
1	66,000	$2.16	$3.50	$9.45	$15.11	$997,260	$6.13	$404,580
					Total	**$2,434,840**		**$987,794**

* Assumes replacing teacher manuals for new hires at 5% per year, plus online system and data sheets.

Cost local districts would pay to DESE for tests: Cost estimates are based on current charge to districts for MAP tests, and testing every student in every subject, with pre-tests as necessary. Costs for districts for grades 3 though 8 tests can be found at http://dese.mo.gov/divimprove/assess/documents/asmt-gl-oe-cover-letter-2013.pdf. The state basically charges $1.80 per grade level for two tests, or $.90 per test.

Table 3.3 Costs districts would pay to DESE for elementary and middle school tests

Grade	Total students	Cost per test	Statewide total one subject	Number of subjects per student	Statewide total
2	66,000	$.90 est.	$59,400	9	$534,600
2	66,000	$.90	$59,400	9 pre-tests	$534,600
3	66,000	$.90	$59,400	9	$534,600
4	66,000	$.90	$59,400	9	$534,600
5	66,000	$.90	$59,400	9	$534,600
6	66,000	Free for math and CA now	$59,400 for additional subjects	9	$534,600
7	66,000	$.90	$59,400	13	$772,200
7	66,000	$.90	$59,400	4 pre-tests	$237,600
8	66,000	$.90	$59,400	13	$772,200
8	66,000	$.90	$59,400	4 pre-tests	$237,600
Total	462,000			Total	$5,227,200
Current cost to give 14 tests (2 are free) $712,800 Grade 3-8 math and English, plus 2 science tests				New costs	**$4,514,400**

On average, Missouri high school students take seven classes a day, one or more of which are semester courses. Older students take more semester courses. Costs for districts can be found at http://dese.mo.gov/divimprove/assess/eoc.html. The state charges $1.80 per test. DESE does not currently charge for the high school end-of-course tests that are not yet required, but this initiative would make every test required, so districts would have to pay for each test. The current cost is based on end-of-course tests required for the class of 2016: Algebra I, Biology, English I, English II, American History and American Government.

Table 3.4 Costs districts would pay to DESE for high school tests

Grade	Students	Cost per test	Statewide one test	Number of subjects (pre- and post-tests)	Statewide total
9	66,000	$1.80	$118,800	8 x 2 tests	$1,900,800
10	66,000	$1.80	$118,800	8 x 2 tests	$1,900,800
11	66,000	$1.80	$118,800	9 x 2 tests	$2,138,400
12	66,000	$1.80	$118,800	9 x 2 tests	$2,138,400
				Total	$8,078,400
				Subtract current cost of 6 tests per graduate	$712,800
				Total new cost	**$7,365,600**

State costs to administer tests each year

Missouri appropriated $10.5 million for MAP and EOC tests in FY 2012, covering 22 tests: 3rd to 8th grade math, 3rd to 8th grade communication arts, 5th and 8th grade science, and eight high school end-of-course tests. This averages to $477,273 per test, and each of these current tests is given to every student in a given grade level. After 6th grade, every student does not take the same courses, so would not take the same assessments, but would all take the same number of assessments, as they would be enrolled in the same number of courses.

It is safe to assume you would lose some economy of scale due to secondary level tests being given to fewer students per test, with more tests to revise each year per grade level. Those additional costs, though reasonable to assume, are not estimated here.

Table 3.5 State costs to administer tests

Grade	Cost per assessment	Number of assessments per student	Statewide total
2	$477,273	9 pre- and 9 post-tests	$8,590,914
3	$477,273	9	$4,295,457
4	$477,273	9	$4,295,457
5	$477,273	9	$4,295,457
6	$477,273	9	$4,295,457
7	$477,273	13	$6,204,549
7	$477,273	4 pre-tests	$1,909,092

8	$477,273	13	$6,204,549
8	$477,273	4 pre-tests	$1,909,092
9	$477,273	8 pre- and 8 post-tests	$7,636,368
10	$477,273	8 pre- and 8 post-tests	$7,636,368
11	$477,273	9 pre- and 9 post-tests	$8,590,914
12	$477,273	9 pre- and 9 post-tests	$8,590,914
		Total	**$74,454,588**

Costs for adopting DESE approved evaluation system

Sections 3(f) and 3(h) state that DESE must approve the evaluation system of local school districts. DESE's current Missouri Model Educator Evaluation System sets forth seven essential principles. One of these principles states: "The system acknowledges evaluator training as a highly significant factor for reliably evaluating performance." It is reasonable to assume any DESE approved evaluation system will have to show their evaluators were sufficiently trained. Those who evaluate teachers, principals, or assistant superintendents would all need to be trained under this proposed amendment.

Missouri's ESEA Waiver requires Missouri school districts to adopt an educator evaluation system that incorporates the seven essential principles, including training for evaluators and use of evaluation results in employment decisions. However, the proposed amendment is far more prescriptive about the weight and use of evaluations. This heightened importance will eliminate the option available under the waiver to use training programs of lower quality and therefore lower cost.

The University of Missouri now offers training for evaluators of teachers, so we know how much it costs to train evaluators and the data services necessary to track the data needed for evaluations. It is reasonable to assume the same costs for evaluators of administrative personnel who hold a certificate to teach in Missouri.

Current charges from the Network for Educator Effectiveness at the University of Missouri are given below. Marc Doss, director of the Heart of Missouri Regional Professional Development Center that operates the Network, supplied the costs. While teacher leaders can also be trained and serve as evaluators, the table below uses only the number of current principals and superintendents in Missouri in the calculations.

First year costs include initial evaluator training: (see Appendix A)
$1300 each for the first 6 in the district
$1000 for the 7th -12th evaluator in the district
$800 for the 13th-20th evaluator in the district
Of Missouri's 520 school districts, the majority would have under 12 evaluators. We use a conservative estimate of $1100 per evaluator as a state wide average in the calculations below.

First year and recurring annual cost for data services, including teacher professional development materials, evaluator access, teacher database, building and district reports, and teacher data file preparation is $12 per certificated staff. Tom Ogle, Missouri Department of Elementary and Secondary Education, supplied the number of teachers, principals and superintendents (by headcount) for 2012-13 used in the calculations below. Since school counselors and librarians are no longer required to hold a certificate to teach, they are not included in the figures. Any counselors or librarians who do hold a certificate to teach would need to be added to the number of teachers, which would increase the cost.

Each evaluator needs an annual re-certification, at a cost of $300. In addition, some new evaluators will need to receive training each year across the state. Few districts would have more than 6 new evaluators in one year, so the cost would be $1300 per evaluator.

Currently, the Network for Educator Effectiveness does not have the capacity to train all Missouri evaluators by fall of 2015. Other commercial evaluator training systems are available. When the quality of the training is comparable, the cost for these commercial systems is higher than NEE. Some charge as much as $45* annually per person evaluated for data services, rather than the $12 charged by NEE for the same service.
*Teachscape/Danielson's Framework

Table 4.1 Statewide first year costs

	Cost per	Personnel number	Total cost
Training for evaluators Principals, superintendents, and assistants	$1100	4,022	$ 4,424,200
Data Services for record-keeping, per person evaluated: Teachers, principals, assistant superintendents	$12	72,410	$ 868,920
		Total	**$ 5,293,120**

Table 4.2 Statewide ongoing annual costs

	Cost per	Personnel number	Total cost
Training for new evaluators	$1300	8% turnover* = 321	$ 416,000
Refresher training	$300	3,701	$ 1,110,300
Data Services	$12	72,410	$ 868,920
		Total	**$ 2,395,220**

*The 8% turnover is estimated. Missouri has 50 to 60 first year superintendents every year, which is 9 to 10% of the 520 superintendents in the state. 8% assumes a slightly smaller turnover in principals.

Technology for administering assessments

This proposed amendment would begin in July 2015. New assessments for the common core are piloting now, with full implementation in 2014. The new assessments are computer-based. The Smarter Balanced Assessment Consortium will offer paper-based tests only for the first three years. (see Appendix B) It is reasonable to assume any new tests developed for additional subjects and courses would also be computer based, as all testing developers are moving to computer-based tests. The Smarter Balanced Assessment Consortium will offer paper-based tests only for the first three years. They are piloting this year, and by the time this proposed amendment begins in July 2015, the sun will be setting on paper-based tests. Requiring additional tests will further strain school capacity.

Currently, the 8 high school end-of-course tests are computer-based. Districts close down all computer labs district-wide during EOC testing because all the district bandwidth is needed for the testing. In many districts, teachers cannot use the Internet to report attendance or stream instructional video. Districts are struggling to afford the technology infrastructure and devices required to add computer-based tests for 3rd-8th grade math and English language arts, 5th and 8th grade science in 2014-2015. Schools must add internet bandwidth and add the ability to connect many more devices at once. Most often the least expensive way is to go wireless.

Jefferson City Public Schools are researching devices that meet testing specifications. Garrett Miller, Director of Technology for Jefferson City Public Schools, provided the data used here. The three least expensive cost options include:

- iPad2 at $399 plus $60 for keyboard/dock to handle typing and charging = $459 total
- Citrix VDI at $550 for standard desktop, not counting additional furniture needed
- Vmware View at $750 not counting switch upgrades, additional furniture, and Microsoft Office licensing, estimated at $80,000 for JCPS

For our calculations, we use the lowest cost for the devices needed to accommodate the additional testing which would be required by this proposed amendment.

Current tests for math and English language arts require several hours for each subject. The new tests that begin in 2014 will take a substantial amount of computer time: 6 to 7.5 hours for math and 6 to 7.5 hours for English language arts for each grade taking the assessment. * Jefferson City determined for grades 3-5 testing of 2,226 students, they would need 1000 devices to complete just math and English language arts testing within the testing window, given the length of time required for each test. Using this ratio of 2226/1000, we see the need for 1 device for every 2.2 students to test just two (2) subjects. When you move to testing every subject for every child, you will need a 1 to 1 ratio of computer device to student.

* http://www.smarterbalanced.org/wordpress/wp-content/uploads/2011/12/Smarter-Balanced-Preliminary-Test-Blueprints.pdf

Additional Internet capacity would be required to meet the demands of more testing. Wireless technology would be less expensive than running enough cable for 1:1 computing. Garret Miller, director of technology for Jefferson City Public Schools, supplied the following information:

> We estimate approximately $1000 per classroom to meet the density requirements for a 1:1 deployment, as that forces one WiFi Access Point per classroom. This dollar amount includes the cost of the Access Point, the license for the controller managing it, and the installation of the network cable. Additional factors that determine overall costs are network switches needed to accommodate each network cable run to each access point.

Miller says JCPS has over 300 iPads in use and they have replaced three (3) due to cracked screens. This represents a 1% replacement rate per year. This estimate is shown as an annual cost in Table 4.3. The cost of periodic replacement of every device as current devices become outdated and unable to meet new technical requirements are not included here.

Table 4.3 Required technology

Number of students/de-vices needed for 1:1 Grades 2-12	Number of classrooms at 25 students per class	Cost per device	Annual replace-ment 1% of devices	Wireless cost per classroom	Initial cost	Annual cost
726,000		$459			$333,234,000	
726,000	29,040			$1,000	$29,040,000	
726,000		$459	7260			$3,332,340
				Total	**$362,274,000**	**$3,332,340**

Not included: Maintenance, network switches, technology staff, training for teachers, cost for additional broadband needed

Summary of costs

	Initial cost	Annual cost
Set content standards for new tests	Not included	Periodic revisions
Develop all new tests- Table 2	$5,123,873,875	Annual revisions
Pre-K, K, and 1st grade testing Table 3.1	$2,434,840	$987,794
Training for Pre-K, K and 1st grade teachers	Not included	Not included
District pays grades 2-8 additional tests Table 3.3	$4,514,400	$4,514,400
District pays grades 9-12 additional tests Table 3.4	$7,365,600	$7,365,600
DESE administer tests Table 3.5	$74,454,588	$74,454,588
Evaluation costs Table 4.1 and Table 4.2	$ 5,293,120	$ 2,395,220
Technology Table 4.3	$362,274,000	$3,332,340
Increased bandwidth required for more tests	Not included	Internet access$
Total estimate of costs included here	**$5,580,210,423**	**$93,049,942**

Appendix A

NETWORK FOR EDUCATOR EFFECTIVENESS

University of Missouri
College of Education
A college on the move

Support Services (Year 1)

Pre-Implementation Planning and Consultation (fall-spring)
Evaluator and Supervisor Training 3-days and two online courses (summer)
NEE Implementation Preparation for Teachers (spring and August)
On-site Follow-up Technical Assistance by NEE Field Support Staff (Sept-Nov)

Costs:

$1,300 for each evaluator for the first 6 in the district
$1,000 for each evaluator for the 7th-12th in the district
$800 for each evaluator for the 13th-20th in the district
Beyond 20 evaluators call Marc Doss for pricing

Support Services (Year 2 and Beyond)

Evaluator & Supervisor Re-Certification Training 1-day & two online courses (summer)
On-site Follow-up Technical Assistance by NEE Field Support Staff (Sept-Nov)

Costs:

$300 for each evaluator each year

Database Services (Annual)

Teacher Database and PD Activities Access
Evaluator Access
Access to Building and District Reports
Online Student Survey Services
Teacher Data File Preparation (July)

Costs:

$12 for each teacher in the NEE system each year

Contact Information:

Dr. Marc Doss
dossm@missouri.edu

Appendix B

Smarter Balanced
Assessment Consortium



Computer Adaptive Testing

The Smarter Balanced Assessment Consortium is a state-led consortium working collaboratively to develop next-generation assessments aligned to the Common Core State Standards (CCSS) that measure student progress toward college- and career-readiness. The work of the Consortium is guided by the belief that a high-quality assessment system can provide resources and tools for teachers and schools to improve instruction and help students succeed.

An Innovative Approach

The Smarter Balanced assessment system capitalizes on the precision and efficiency of computer adaptive testing (CAT) for both the mandatory summative assessment and the optional interim assessments. Based on student responses, the computer program adjusts the difficulty of questions throughout the assessment. For example, a student who answers a question correctly will receive a more challenging item, while an incorrect answer generates an easier question. By adapting to the student as the assessment is taking place, these assessments present an individually tailored set of questions to each student and can quickly identify which skills students have mastered. This approach represents a significant improvement over traditional paper-and-pencil assessments used in many states today.

- **Better information for teachers:** Optional computer adaptive interim assessments will provide a more detailed picture of where students excel or need additional support, helping teachers to differentiate instruction. The interim assessments will be reported on the same scale as the summative assessment, and schools will have flexibility to assess small elements of content or the full breadth of the CCSS at locally-determined times throughout the year.
- **More efficient and more secure:** Computer adaptive tests are typically shorter than paper-and-pencil assessments because fewer questions are required to accurately determine each student's achievement level. The assessments draw from a large bank of questions, and since students receive different questions based on their responses, test items are more secure and can be used for a longer period of time.
- **More accurate:** Computer adaptive testing offers teachers and schools a more accurate way to evaluate student achievement, readiness for college and careers and to measure growth over time.

Support for States

Smarter Balanced is committed to helping states transition successfully to CAT. We collaborated with PARCC to develop a technology readiness tool to identify infrastructure gaps that might serve as barriers for computer-based assessments. States will have the option to administer a paper-and-pencil version of the summative assessment during a three-year transition period. Finally, the 12-week administration window for the summative assessment will reduce pressure on school information technology resources.

Additional Resources

Smarter Balanced is working with experts in the field of computer adaptive testing, drawing on the experience of member states like Oregon, which implemented CAT in 2001. For more information on CAT, see:

- *A Framework for the Development of Computerized Adaptive Tests*, Nathan A. Thompson, Assessment Systems Corporation, and David J. Weiss, University of Minnesota
- *The Road Ahead for State Assessments*, Rennie Center for Education Research & Policy, Policy Analysis for California Education (PACE)

LEARN MORE AND GET INVOLVED

Visit SmarterBalanced.org to learn more about the Smarter Balanced Assessment Consortium and sign-up to receive our monthly eNewsletter. For more information, please contact Info@SmarterBalanced.org.

Scott Dieckhaus provided information as a proponent of the proposal to the State Auditor's office.

I am providing the following comments as a proponent of the Teacher Tenure Initiative Petition submitted on March 15, 2013.

I have studied education policy and reform for many years, as a former teacher and former Chair of the House Elementary and Secondary Education Committee. In addition, I became familiar with the state of education funding and school finance in Missouri and at the local level.

Our students cannot afford to be subject to ineffective teachers any longer. Our school districts cannot afford the current process of trying to fire ineffective teachers. Our districts cannot afford the extra time it takes to attempt to "catch students up" in the year following their year with an ineffective teacher. Our districts cannot afford to lose our most effective teachers as a result of frustration that promotions, pay increases and other personnel decisions were not based on performance.

The current system for evaluating educators is outdated. While DESE is in the process of implementing much needed reforms with respect to student assessments and educator evaluations, this initiative petition seeks to make additional changes that will help our students be work-ready to compete on the global level. Increased teacher effectiveness is the key to increased student success.

The proposed initiative has similar provisions as were contained in a piece of legislation I sponsored in 2012 – HB 1526. The fiscal note from that bill included comments from DESE confirming such provisions would have no cost to the state. No school districts reported any costs associated with the legislation. The Fiscal Note for the Perfected HCS for HB 1526 was $0 for general revenue, $0 for net effect on other state funds, and $0 for local school districts.

The legislation actually placed more requirements on local school districts than does this initiative petition. Based on all my experience, the total fiscal impact to state and local school districts as a result of the initiative petition is zero.

Katherine Casas provided information as a proponent of the proposal to the State Auditor's office.

This letter serves as my submission on fiscal impact relating to Teacher Tenure Initiative Petition filed on March 15, 2013. I am a former 4th grade teacher and currently serve as state director of the Children's Education Council of Missouri and the Children's Education Alliance of Missouri, and I am a supporter of the proposed measure.

I became a teacher because I saw first hand that a lack of poor quality education had devastating effects on the lives of children and in particularly the lives of at risk children. I taught for three years in the St. Louis Public Schools as a 4th grade general

education student. In my time as a teacher I saw first hand the great impact that a great teacher could have on a students' life and unfortunately I saw the negative consequences an underperforming teacher could have on the life of a student.

Additionally, as state director of two education policy organizations, I spend a great deal of time researching current best practice in recruiting, retaining, and creating great teachers. Evidence is clear, evaluating teachers based on student growth and then using those evaluations to make decisions about who has the privilege to educate Missouri's children is the best way to create a world-class education system. While students may enter our classrooms and schools at varying levels, it is our job to see that while they leave our classrooms at a higher level. Without student achievement data and meaningful evaluations, it is hard to know where we stand. It is also important that we know decisions relating to our careers are going to be based on this feedback and performance, and not some other measure.

I have spent a great deal of time in the last couple of months working with and researching DESE's educator evaluation pilot. Based on numerous conversations, presentations, and documents on their website, it is clear to me that nearly all or all of the cost associated with implementing the new teacher evaluation system are going to be spent by DESE whether this initiative becomes law or not. Therefore, I believe the cost to the state and local governments and school districts should be $0.

Amanda Henry provided information as a proponent of the proposal to the State Auditor's office.

This letter serves as my submission on fiscal impact relating to the Teacher Tenure Initiative Petition filed on March 15, 2013. I am a former special education teacher and am a current MBA/MA (Educational Leadership) candidate at Saint Louis University, and I am a supporter of the proposed measure.

I was inspired to teach because of many of the great teachers that I had in the course of my schooling. I taught for five years in the St. Louis Public Schools in elementary special education. I saw, first-hand, the value to students of great teachers. I also, unfortunately, saw first-hand the cost to both students and the school district of ineffective teachers. In my opinion, the proposed measure would help districts ensure that they are hiring and retaining the most effective teachers.

As a teacher, it is important to receive regular feedback regarding performance. Our ultimate goal is to see growth in students. While students may enter our classrooms and schools at varying levels, it is our job to see that they leave our classrooms at a higher level. Without student achievement data and meaningful evaluations, it is hard to know where we stand. It is also important that we know decisions relating to our careers are going to be based on this feedback and performance, and not some other measure.

It is my understanding that increased assessments and revised evaluations for teachers are already being handled by DESE. The limitation on the length of teacher contracts and the

requirement that student achievement data be a majority of any evaluation system would not require any additional state or local funds to implement.

Joe Knodell provided information as a proponent of the proposal to the State Auditor's office.

Please consider this letter as my proposed statement of fiscal impact for the Teacher Tenure initiative petition submitted on March 15, 2013.

I spent twenty years as a teacher, principal, and superintendent in the East Carter County R-II School District. I also spent nearly ten years as the superintendent at Twin Rivers R-X. In all of my years in education, I learned much about student performance, teacher performance, teacher evaluation methods, and school district budgets.

Through my experience, I know that our best teachers had a tremendous impact on student outcomes. In my mind, teacher quality is one of the most important determinants of student success.

I also saw first-hand the impact of underperforming teachers on students. I saw the costs associated with having to handle situations with ineffective teachers.

This initiative will require that a majority of the teacher evaluation system be based on student performance. This is a modification of changes DESE is already making, and will not result in additional costs to school districts. In addition, increasing teacher effectiveness state wide will have significant benefits for our students and our school districts.

Marc Ellinger on behalf Proponents of the Proposed Measure provided information as a proponent of the proposal to the State Auditor's office.

I submit the following proposed statement of fiscal impact for the Initiative Petition I filed on March 15, 2013, with the Missouri Secretary of State's Office, on behalf of TeachGreat.org, the proponent committee of the Initiative Petition.

In 2012, the State Auditor's Office estimated that the "initial and annual costs could be significant (millions of dollars)" for a different initiative petition relating to some similar matters.[1] This measure has different aims and any suggestion that this proposal would result in costs of that magnitude would be misleading.

There is no cost to state or local governments based upon the proposed Teacher Tenure Initiative Petition. This Initiative Petition directly affects the weighting of measures that are part of an evaluation system approved by the Department of Elementary and Secondary Education. The cost of increasing the weight of one such measure, quantifiable student performance data, within the evaluation system is, at worst, *de minimus*.

Proposed Statement of Fiscal Impact for 2014-024

The proposal is estimated to result in no direct costs or savings to state and local governmental entities.

The 2012 Fiscal Note Summary

The 2012 Fiscal Note Summary was largely based on four responses. In Fiscal Note 12-09, the Department of Elementary and Secondary Education (DESE) suggested that the annual cost of "assessments for the...testing now done is in excess of $10 million." DESE suggested the cost would increase due to the proposed measure, but made no attempt to quantify the

[1] Missouri State Auditor's Office, *Fiscal Note (12-09)*, (2012), http://auditor.mo.gov/Notes/12-9.pdf. (Attached hereto as Exhibit 1).

increase.[2] The Department of Social Services reported no known fiscal impact. The Secretary of State's Office indicated it would have the appropriation authority needed to meet the publishing requirements for any statewide ballot measure. Finally, the Missouri Association of School Administrators, as an opponent, submitted a response suggesting the total cost to state and local government entities in FY 2013 would be $1.57 billion and $314 million in 2014.[3]

The MASA submission grossly overestimated the cost of the proposal because it relied on the assumption that without the Initiative Petition, DESE plans to make no changes to its existing assessment and evaluation guidelines. That assumption is wrong. Not only do all school districts perform student assessments and teacher evaluations, but DESE is also in the process of a comprehensive reform of student assessments and educator evaluations. Costs associated with changes that DESE has already made or is planning to make cannot be attributed to *this Initiative* Petition.

Student Assessments

There will be no additional costs to the state or local school districts because most school districts currently are performing standardized assessment and/or diagnostic tests for most grade levels and subject areas. In addition, DESE is in the process of implementing a more comprehensive assessment plan. Missouri is also part of the Smarter Balanced Assessment Consortium which is currently developing additional assessments. The proposed Initiative Petition allows the local school districts to create their own method of performance-based

[2] It should be noted that this was not DESE's original response. DESE submitted three different responses (attached hereto as Exhibit 2). DESE's first response (January 23, 2012) estimated $0 as the net effect on state and local funds. DESE's second response (February 2, 2012), estimated insignificant costs to state government and unknown costs to local government. DESE's third and final response (February 3, 2012), indicated "unknown costs up to and exceeding 4.5 million" to state government and "significant unknown costs" to local government entities. This third response was included in the Auditor's Fiscal Note.

[3] The Cape Girardeau 63 School District, Hannibal 60 School District, and the Rockwood R-VI School District essentially submitted copies of the MASA submission. (See Exhibit 1).

determinations, with necessary approval from DESE, and does not mandate nor authorize such a requirement on a state basis. Local school districts are not prohibited from using existing state bases, such as the MAP test or Smarter Balanced Assessment, to determine performance of teachers.

Much of the research and development for additional student assessments has already been completed or is in the process of being completed. DESE's High School Assessment Plan shows that it plans to increase the number of assessments for high school students from four to eleven by 2018.[4] In addition, in 2010, the U.S. Department of Education awarded $160 million to the Smarter Balanced Assessment Consortium, of which Missouri is a part, to develop a valid, reliable, and fair system of next-generation assessments.[5] Smarter Balanced projects that most states will spend less on Smarter Balanced assessments than they do on prevailing assessments.[6] Districts in Missouri have already been preparing for the Smarter Balanced assessments in 2014-2015. These assessments make use of computer adaptive technology. DESE has surveyed Missouri School Districts to determine if they are "technology ready" for the Smarter Balanced assessments, and found 97.79% of districts indicated they are technology ready for the first administration of the Smarter Balanced assessments.[7] For these reasons, MASA's previous estimate of costs with respect to assessments is inaccurate.

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[4] Missouri Department of Elementary and Secondary Education, *Assessment Plan*, http://dese.mo.gov/divimprove/assess/documents/asmt-eoc-hs-assess-plan.pdf. (Attached hereto as Exhibit 3).
[5] U.S. Department of Education, *U.S. Secretary of Education, Duncan Announces Winners of Competition to Improve Student Assessments* (Sept. 2010), http://www.ed.gov/news/press-releases/us-secretary-education-duncan-announces-winners-competition-improve-student-asse. (Attached hereto as Exhibit 4).
[6] Smarter Balanced Assessment Consortium, *Frequently Asked Questions*, http://www.smarterbalanced.org/resources-events/faqs/. (Attached hereto as Exhibit 5).
[7] Missouri Department of Elementary and Secondary Education, *Missouri Technology Readiness Data Summary* (Oct. 2012), http://www.dese.mo.gov/divimprove/assess/documents/asmt-sbac-mo-device-summary-1012.pdf. (Attached hereto as Exhibit 6).

MASA estimated the "Development Costs" for additional student assessments under the proposed measure amounts to $1.16 billion. MASA's estimate fails to account for the fact that the costs incurred from developing new assessments are being borne by Smarter Balanced Assessment. In addition, the development of additional assessments is already underway through DESE. Whether or not the initiative passes, these additional assessments will be developed and implemented. Thus, any costs related to the development of such tests are not a fiscal impact of *this Initiative Petition*. Because Smarter Balanced Assessment and DESE are moving forward with additional assessments already, MASA's submission greatly overestimates the number of new tests that would be required as a result of *this Initiative Petition*.

In addition, MASA greatly overestimated the "Cost Per Test To Develop," which it derives from the cost of "Smarter Balanced Assessment." Again, this cost of development in many cases is already being borne by Smarter Balanced Assessment. The cost of developing the Smarter Balanced assessment system is funded by the U.S. Department of Education's Race to the Top Assessment Program.[8] The cost to utilize the Smarter Balanced Assessment will be less than the current assessment costs and is a cost the state will incur, regardless of whether *this Initiative Petition* passes or not.

For many of the same reasons, the MASA submission greatly overestimated the "Administration Costs" of the proposed measure. MASA overestimated the "cost per test" because the new Smarter Balanced assessments will cost less to administer than the current assessments. In addition, DESE is already in the process of increasing the number of assessments required. As a result, MASA overestimates the number of "new" test administrations that would result from *this Initiative Petition*. Regardless of whether or not this

[8] *See* Exhibit 5.

initiative passes, additional assessments will be implemented. Any costs associated with administration of those assessments are a result of other policy changes, not of *this Initiative Petition.*

Similarly, the "Startup Cost" of $47,881,419 is a gross overestimate. It assumes a cost of $53 per student (based on Table 4: 3,861,000 divided by 66,000). This projection is based on an overestimate of "cost per test" and overestimate of the number of "new" tests. The "Reoccurring costs" of $260,113,785 is also an overestimate based on a flawed estimate of the number of "new assessments" *this Initiative Petition* would require and an inflated "cost per assessment" figure.[9]

Teacher Evaluations

The new Missouri School Improvement Program (known as MSIP 5), in conjunction with Board of Education policies that flowed from the No Child Left Behind waiver requirements, will also provide a platform for local school districts to evaluate teacher performance. The Initiative Petition gives significant latitude to local school districts regarding how to implement the teacher evaluation program it sets forth. There are no anticipated costs to local school districts to adopt existing performance measures for students as performance based standards for teachers: the Initiative Petition simply requires that a majority of the measures of such an evaluation system be based upon quantifiable student performance.

[9] MASA also attempts to inflate cost by alleging that the variety of courses and tests will increase the expense to local school districts. Such attempts are invalid as DESE developed a system to evaluate all teachers and other states have developed testing for all courses, not just core courses, which can be easily adopted. See, e.g., Delaware. *Value-added remodeling – America's schools are getting their biggest overhaul in living memory*, The Economist, March 16, 2013, http://www.economist.com/news/special-report/21573281-americas-schools-are-getting-their-biggest-overhaul-living-memory-value-added. (Attached hereto as Exhibit 7).

The Department of Elementary and Secondary Education has publicly stated, in its draft waiver under the No Child Left Behind Act, that it will be using a student growth model to evaluate performance of districts (which would be very similar to the proposed system) and easily used for evaluating performance of local teachers.[10] See attached draft at page 25. The State Board of Education was presented with the Educator Evaluation System in June 2012. DESE has already made "significant efforts" with respect to the statewide educator evaluation pilot, and has plans to have the educator evaluation guidelines presented to and approved by the State Board of Education by June 2013.[11]

The MASA Submission estimated "Startup Costs" for teacher evaluations at $53 dollars per student, for a total of $47,881,419 based on a similar program in Colorado. These costs are associated with: selecting evaluation tools and measures, one-time data set up, developing an appeals process, professional development for all staff, and professional development for evaluators.

The January 2013 Update on Educator Evaluation Pilot shows progress in the development of a new Educator Evaluation System in July 2012 an Administrator Conference was held, in the latter part of 2012 three Regional Orientation Meetings were held, and from October 2012 to the present, the Department has been developing guidelines for the Essential Principles.[12] The Regional Orientation Meetings included nearly 400 districts and over 1,300 participants, and an audit of the local evaluation process was conducted. In January and February of 2013, DESE planned to collect data from pilot districts and gather feedback on the

[10] Missouri Department of Elementary and Secondary Education, *No Child Left Behind Flexibility Waiver, Draft #2* (Dec. 2011) (attached hereto as Exhibit 8).
[11] Missouri State Board of Education, *Agenda Item: Update on Education Evaluation Pilot* (Jan. 2013), http://dese.mo.gov/stateboard/meetings/January/documents/EducatorEvaluationUpdate.pdf. (Attached hereto as Exhibit 9).
[12] *Id.*

guidelines. In April and May of this year, DESE plans to incorporate feedback into its revision to the state's model, complete the final draft of the guidelines, and develop trainings to build district capacity. DESE plans to seek approval of the educator evaluation plan from the State Board of Education in June 2013.[13] Many, if not all, of the activities, which are the basis of MASA's "Start Up Costs" estimate, are activities that DESE has already undertaken or plans to undertake, regardless of whether *this Initiative Petition* passes or fails.

MASA also provided an ongoing cost estimate for evaluating teachers. The costs are associated with the following activities: observation with pre/post interview; examination of lessons, unit plans, assignments and assessments; student and parent feedback; peer observation and feedback; teacher review and interviews; and analysis of student data and growth. MASA's estimates ignore that in Missouri, most of these activities are already part of the status quo. More importantly, MASA's estimates ignore the fact that nothing about *this Initiative Petition* requires "ongoing supervision and evaluation" or "remediation."

MASA's cost estimates in fiscal note 12-09 are based on flawed assumptions and are gross overestimates of the actual fiscal impact to the state or to districts as a result of this I*nitiative Petition*. Fiscal Note 12-09 also failed to account for potential cost savings associated with the proposed measure.

Cost Savings

The proposed Initiative Petition will also result in cost savings to local school districts in terms of reduced litigation costs and reduced salary costs. Additionally, there is potential savings to the state, in the unlikely circumstance of a school district choosing to forego state

[13] *Id.*

funding to maintain the seniority based system that exists currently. In the case of such an event, the state may recognize savings of an unknown amount, but possibly in the millions of dollars.

Reduced Litigation Costs

Local school districts will see quantifiable savings from the proposed Initiative Petition. School districts which have attempted to discipline or remove incompetent and ineffective teachers have had to suffer through long litigation periods and dire costs to remove substandard employees. One such example is Moniteau R-1 School District, a small rural school district, which attempted to remove one tenured teacher. That removal effort lasted over 23 months and cost that small district over $35,000 in attorney's fees.[14] Another example is the South Iron R-1 School District, which is in the process of removing a tenured teacher. While the process is ongoing, it has already lasted about six months, and has cost the district approximately $17,000 in attorney's fees.[15] In Polo R-VII, the school district has faced over $18,000 in legal fees as a result of trying to remove a tenured teacher,[16] and in De Soto 73, the cost was approximately $8,000.[17] In addition, tenured teachers subject to the process of removal are paid, and a substitute teacher must also be paid, effectively doubling the cost of instruction for the time period. These are just two examples of costs which can be avoided should this Initiative Petition pass (documentation of these costs is attached to this fiscal impact submission).

Multiple other school districts in the State of Missouri have experienced similar, long litigation windows to exercise their ability to remove ineffective and incompetent teachers. The St. Louis Public Schools, Columbia Public Schools, Union Public Schools and Kansas City

[14] Reorganized School District No. 1 of Moniteau County, *Response to Open Records Request* (Feb. 2012) (attached hereto as Exhibit 10).
[15] South Iron R-1 School, *Response to Open Records Request* (Feb. 2012) (attached hereto as Exhibit 11).
[16] Polo R-VII School District, *Response to Open Records Request* (Sept. 2012) (attached hereto as Exhibit 12).
[17] DeSoto School District #73, *Response to Open Records Request* (Sept. 2012) (attached hereto as Exhibit 13).

Public Schools are all examples of school districts which have had reported cases regarding the discipline and removal of tenured teachers. A reported case requires litigation at the trial court level and appellate level, which can easily exceed tens, if not hundreds, of thousands of dollars per teacher. In the future, such expenses will not have to be borne by school districts as teacher tenure phases out.

Using the most conservative numbers, it is reasonable to assume that ten percent of school districts (or about 50 districts) would terminate one teacher per year. The cost of terminating one teacher per year is approximately $50,000 (for both litigation and substitute pay) per district per year. It is reasonable to conclude, therefore, that the yearly cost of terminating tenured teachers statewide is approximately $2.5 million dollars. Thus, this measure would have estimated savings to local governments of at least $2.5 million dollars per year.

Reduced Salary Costs

Furthermore, there could be additional cost savings as a result of the change to the provisions related to leaves of absence. Currently, Boards of Education may place teachers on leaves of absence because of a decrease in pupil enrollment, school district reorganization, or financial condition of the school district. The first to be placed on leaves of absence are those serving probationary periods, but only in the inverse order of their appointment. See Section 168.221.5, RSMo. Moreover, seniority is specifically prescribed as a factor to be considered in the board's decision of who to place on leave. See Section 168.124, RSMo. Many refer to this as the "last in, first out" rule. This type of policy is costly because, in general, teachers with the

lowest salaries are the first to go, thus minimizing potential savings to the school district.[18] Regardless of whether a more senior, and higher paid, teacher is effective, that teacher will stay.

The Initiative Petition would require this decision not be based on order of appointment, but rather, be determined by an evaluation system, the majority of which would be based on quantifiable student performance data. This means that under the initiative, it is more likely that a lower paid but higher performing teacher might stay with the district, and a higher paid, lower performing teacher might be placed on leave, as opposed to the purely seniority based system currently in place. This change with respect to leaves of absence and reduction in staff would result in cost savings to local school districts.

Positive Fiscal Impact of Higher Teacher Quality

In addition to the cost savings associated with the proposed measure, there is a positive fiscal impact to the state and local government entities as a result of higher teacher quality. According to a December 2010 National Center of Analysis of Longitudinal Data in Education Research report, "the key element defining a school's impact on student achievement is teacher quality." [19] The study found that a teacher who is at the 60th percentile in teacher effectiveness raises individual student career earnings by $5,292 which translates into a $105,830 positive impact for a class size of 20 students.[20] And, a teacher who is at the 80th percentile raises

[18] It is also costly in the sense that retaining ineffective senior teachers over "new" teachers potentially decreases the earning potential of students. See the discussion about the positive fiscal impact of higher teacher quality, herein. One study suggested that "three out of four times, new teachers perform better in the first year of teaching than the low-performing teachers they replace, and they are more likely to improve over time." See The New Teach Project, *The Irreplaceables: Understanding the Real Retention Crisis in American's Urban Schools* (2012), http://tntp.org/assets/documents/TNTP_Irreplaceables_2012.pdf. (Attached hereto as Exhibit 14).

[19] Eric Hanushek, Center for Analysis of Longitudinal Data in Education Research & The Urban Institute, *The Economic Value of a Higher Quality Teacher*, (2010), http://www.urban.org/publications/1001507.html. (Attached hereto as Exhibit 15).

[20] *Id.*

earnings for a class of 20 over $400,000 per year.[21] It is fair to assume that a significant portion of this marginal increase in individual income would be infused into the local and state economies, resulting in a positive fiscal impact on each of those levels. The study also found that "a below average teacher leads to a similar decrease in lifetime earnings." [22] If the average learning growth each year is one "grade-level equivalent" then the bottom five percent of teachers see, at best, two-thirds of a grade level equivalent, and the bottom one percent achieve no more than one-half of a grade-level equivalent each year.[23] The continued retention of such sub-standard teachers would effectively decrease student lifetime earnings and thus would cause negative knock-on effects for state and local economies. Yet, human resource policies in public schools are "peculiarly out of sync with those in other sectors of our economy." [24]

Hanushek, the report's author, concluded that eliminating the least effective 5-8 percent of teachers would bring student achievement in the United States to the level of Finland.[25] The present value of this change to GDP in the U.S. would amount to a net gain of $112 trillion.[26] Another study by Hanushek suggests that if the U.S. were to adopt a 20-year reform plan, "the increased GDP through improved student achievement would almost immediately cover current teacher salaries and benefits fully."[27]

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[21] *Id.*
[22] *Id.* See also Marcus A Winters, The Civic Report, *Transforming Tenure: Using Value-Added Modeling to Identify Ineffective Teachers* (2012), http://www.manhattan-institute.org/pdf/cr_70.pdf. (Bad teachers not only have a negative impact on pupil's earnings as adults, but also make students more likely to have an early pregnancy and reduce their chances to go to college). (Attached hereto as Exhibit 16).
[23] Eric Hanushek, *Teacher Deselection*, in *Creating a New Teaching Profession*, Chapter 8 (Urban Institute, 2009). (Attached hereto as Exhibit 17).
[24] Michael Podgursky, *Teams versus Bureaucracies: Personnel Policy, Wage-Setting and Teacher Quality in Traditional Public, Charter and Private Schools*, in Mark Berends, Matthew Springer, and Herbert Wieberg, *Charter School Outcomes*, 61-84, (Lawrence Erlbaum Associates, 2008). (Attached hereto as Exhibit 18).
[25] *Id.*
[26] *Id.*
[27] See Exhibit 17.

At present, it is extremely difficult and costly for a school district to remove an ineffective teacher.[28] The annual dismissal rate for all teachers in traditional public schools is just 1.1%, compared with 7.5% for charter schools and 3.7% for private schools.[29] The proposed initiative would provide a means to allow school districts to dismiss ineffective teachers. As the data above demonstrates, eliminating the least effective teachers will translate into a positive fiscal impact to the state.

Hanushek's research also suggests there is a cost savings associated with an evaluation system that helps an average teacher become a better teacher. Current school policies and evaluation systems provide few consequences for mediocre or below average teachers and virtually no benefits for being among the best teachers.[30] The initiative petition would require that a majority of the evaluation model would be based upon quantifiable student performance data. The Measures of Effective Teaching project reports that assigning fifty percent of the weight to student achievement data in an evaluation system "maintains considerable predictive power, increases reliability, and potentially avoids the unintended negative consequences from assigning too-heavy weights to a single measure." [31] Studies show that adding value-added data to educator evaluation systems provides a more complete and accurate picture of student success.[32] A recent report in the Journal of Economic Perspectives stated, "[o]ur analysis

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[28] See Exhibit 18. (It is "very difficult to dismiss senior teachers for anything but the most egregious failures in job performance. In practice, most dismissals of tenured teachers seem to be associated with criminal activity, psychological disorders, or serious moral turpitude[.]").
[29] *Id.*
[30] See Daniel Wiesberg, Susan Sexton, Jennifer Mulhern & David Keeling, The New Teacher Project, *The Widget Effect: Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness* (2009), http://widgeteffect.org/downloads/TheWidgetEffect.pdf. (Attached hereto as Exhibit 19).
[31] Measures of Effective Teaching Policy and Practice Brief, *Ensuring Fair and Reliable Measures of Effective Teaching: Culminating Findings from the MET Project's Three-Year Study* (Jan. 2013), http://www.metproject.org/downloads/MET_Ensuring_Fair_and_Reliable_Measures_Practitioner_Brief.pdf. (Attached hereto as Exhibit 20).
[32] See Exhibits 14 and 16.

suggests that there are substantial returns to investing in better information about teacher effectiveness[.]" [33]

The requirements for an educator evaluation system contained in the proposed initiative were designed to allow school districts to dismiss ineffective teachers, and retain and reward effective teachers. Increasing the number of effective teachers in Missouri schools will have a quantifiable positive effect on students' potential earnings which will result in a positive impact to Missouri's revenues in the future. Even if only $1 billion of additional earnings is generated, (representing a per student increase of $1,111 among Missouri's nearly 900,000 students), the income tax revenue would be $60 million per year, not to mention additional sales taxes and the increased tax revenues from the multiplier effect.

The Lesson from House Bill 631 (2013)

The fiscal note for House Bill 631 confirms the information in this submission. HB 631, like the proposed initiative, revises the provisions related to teacher tenure and revises the requirements for the evaluation of teachers by ensuring such evaluations are primarily based on student achievement measures. HB 631 also revises the "last-in, first out" rule for placing teachers on leaves of absence. However, HB 631 contains a number of additional requirements not contained in the initiative petition, including: requiring districts to use four rating levels ("highly effective," "effective," "minimally effective" or "ineffective"); requiring districts to place a permanent teacher who receives a rating of "ineffective or minimally effective" on an individualized development plan during a remediation period; requires DESE to promulgate

[33] Douglas O. Staiger, Jonah E. Rockoff, *Searching for Effective Teachers with Imperfect Information* (Summer 2010), Journal of Economics Perspectives, Vol. 24, No. 3. (Attached hereto as Exhibit 21).

rules to implement the various requirements; and requires each local school district to develop guidelines for professional improvement plans for teachers, principals and administrators.

DESE submitted a response with respect to the fiscal impact for HB 631 indicating "[no] significant costs to DESE as a result of the proposed legislation." [34] In addition, the Kansas City Public School District stated it did "not see substantial unfunded mandates for KC Public Schools. KCPSD currently evaluates staff and provides teachers and principals with professional training and improvement plans when they believe it is warranted."[35] The Committee on Legislative Research concluded that the fiscal impact to the state would be $0.00 (for FY 2014, FY 2015, and FY 2016). The Fiscal Note reflects a fiscal impact to local school districts that "could exceed $100,000." [36] If anything, HB 631, as it contains many more requirements than the initiative petition, would be more costly than the initiative petition. The fiscal analysis for HB 631 suggests that the fiscal note for this initiative petition should be zero.

Conclusion

There is no cost to state or local governments based upon the proposed Teacher Tenure Initiative Petition. Through the work of Smarter Balanced Assessment and DESE, much of the additional assessments and a comprehensive evaluation system are already in motion. This initiative petition directly affects the weight of the measures of an educator evaluation system approved by DESE. The cost of increasing the weight of quantifiable student performance data within the evaluation system is minimal. In addition, there are, in fact, potential savings to local school districts in foregone attorney's fees regarding the removal of incompetent or ineffective

[34] Missouri Committee on Legislative Research, Oversight Division, *Fiscal Note for HB 631 (L.R. No. 1246-01)*, http://www.moga.mo.gov/Oversight/OVER13/fishtm/1246-01N.ORG.htm. (Attached hereto as Exhibit 22).
[35] *Id.*
[36] *Id.*

tenured teachers. Finally, there is the potential revenue growth from increased earnings due to students receiving instruction from more effective teachers, making this proposed initiative fiscally beneficial for both state and local governments.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-09)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article IX. (Received January 18, 2012)

Date

February 6, 2012

Description

This proposal would amend Article IX of the Missouri Constitution.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Cass County, Jackson County Legislators, St. Louis County,** the **City of Cape Girardeau,** the **City of Kansas City,** the **City of Kirksville, the City of Springfield, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University,** and **University of Missouri.**

The **Missouri Association of School Administrators (submitted by Roger Kurtz, Executive Director)** provided information as a opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Department of Agriculture** indicated there will be no fiscal impact on their department.

Officials from the **Department of Economic Development** anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

Sections 3(d) and (f)
These provisions carry eventual unknown costs that could be significant to the Department of Elementary and Secondary Education and to local county governments. While the language is declarative, no mention is made to enforcement of the provision. When the language indicates "No school district receiving any state funding or local tax revenue funding shall....," it implies enforcement of the provision. The department cannot withhold funding without substantiated cause. In order for the department to show substantiated cause, it must have a method to collect and review pertinent data that would support its actions. This would require additional staffing and/or data system development and maintenance (a number not yet determined) to collect and analyze contracts for each teacher in the state to verify duration of contracts on an annual basis.

Further, it would be necessary for the department to report districts determined to be in violation to one hundred-fourteen counties and one city in Missouri. Most counties have multiple school districts and many school districts are in multiple counties. It would be incumbent upon the counties then to put mechanisms into place to suspend payments to the respective violators of this provision. The cost to the counties and one city to put this system into place would be significant statewide. Additionally, counties would also face the possibility of a significant increase in litigation exposure relative to the withholding of funds.

While it is impossible to determine the exact amount of cost, the potential cost to the state, counties and one city driven by the need to assure that funds are not distributed in violation of this section would be in the millions of dollars.

Section 3(g)
If it is determined that the state shall develop and implement evaluation technical assistance, then costs could be similar to those incurred by the state of Florida's public school system model totaling $4.5 million. If state assessments are required to provide student performance data for all teachers, additional state costs could be incurred.

The exact cost of this provision is also difficult to calculate. This provision calls for each district to develop its own local performance standards for teachers "to retain, remove, promote, demote and set compensation." In effect this would establish 520 accountability systems and thereby set aside the Missouri Accountability Standards established by the State Board of Education. Local districts would incur significant cost

in the aggregate for establishing customized accountability systems which counter the concept of statewide educational goals. Such systems would have difficulty meeting validity tests which could increase the likelihood of litigation cost.

For the department to establish assessments that could be used statewide, a significant increase in test development and ongoing administrative expenses would be required. Funds have not been available to allow for expanded assessment capabilities that would allow districts to move to a more thorough collection of student performance data. The requirement that all staff be assessed based upon student performance would demand that assessment instruments be in place to measure student success in all cases where "teachers" are employed. While the department has not done research to determine the cost and scope of assessments that would be required to address this provision, it can be documented that the annual cost of assessments for the limited testing now done is in excess of $10 million. This number would grow exponentially if the department was to assure all content areas, grade levels, and instructional support areas were assured valid assessments of student performance.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated there will be no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Social Services (DSS)** indicated this initiative petition has some relevance to their department as the Division of Youth Services (DYS) employs teachers in schools operated in its facilities. Also, for at least some purposes, including the school foundation formula, DYS is considered a school district. Teachers employed

by DYS are merit system employees. Therefore, we are trying to work out any conflict that may exist between being an "at will" employee of a school district and a merit system employee.

Section 3(d) - Currently, teachers and other educational staff are employed by the Department of Social Services in the DYS as employees of the Missouri Merit System under Chapter 36 State Personnel Law (Merit System). To make these staff "at will" employees, the incumbents in these positions would be required to resign or be terminated from (if they did not voluntarily resign) their merit positions and be placed in unclassified positions not covered under the Merit System. This could affect as many as 150 DSS employees in our Academic Teacher, Special Education Teacher and Vocational Teacher job classifications.

A change in the law (Chapter 36) and state personnel regulations by the Office of Administration would have to be completed to allow DSS to change these merit positions to unclassified positions. Only 1% of a division's positions can be filled as unclassified appointments. Changing 150 employees from merit to unclassified would cause the division to exceed the maximum and they would be unable to fill all the necessary positions creating a negative impact upon the division, clients, and provision of critical services to the youth in DYS custody. To allow all impacted positions to be filled as unclassified, there would also have to be a change in the state personnel regulations 1CSR 20-1.040(2) to allow these DYS job titles to be established and filled without regard to provisions of the State Personnel Law. In other words, these positions would be exempt from the department's one percent restriction of unclassified job titles.

This legislation is unclear which job titles would be included in "certificated staff." Based on discussions with the Department of Elementary and Secondary Education (DESE) Certification Unit, the assumption is being made that "certificated staff" refers to teachers that hold tenure in the classroom per Department of Education definitions. However, other staff in the DYS program holds certifications (e.g., nurses, psychologists, counselors). The definition of "certificated staff" needs to be clearly defined and the fiscal impact could change depending on that.

Section 3(e) – This implies that these staff would be contracted; however, the agency believes it could meet the requirements of "at will" by using the unclassified service.

Section 3(f) - The job titles used in DYS are bargaining unit eligible classifications for the Department of Social Services under the Communication Workers of America (CWA) Local 6355, AFL-CIO. According to the CWA agreement, seniority, as defined in Article 17 of the Agreement, is used as the determining factor in all requests for promotions when all other work related factors are equal. There is a savings clause that states that if a federal or state law or regulation passes that invalidates a portion of the agreement, the remaining agreement would remain in place. However, the agency would also need to address whether the job classifications, if they would become unclassified, are still appropriate for the DSS/CWA bargaining unit.

Section 3(g) – To set performance standards for teachers for promotions and pay raises based on quantifiable student performance data would put the DYS teachers at a disadvantage as their students stay in the facilities for a short time, not necessarily a normal school year. This could cause an unreasonable timeframe for the student's performance to be measured resulting in inaccurate performance data.

There is no known fiscal impact from a human resource perspective for this petition.

Officials from the **Governor's office** indicated there should be no added costs to the their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost $1.02 million to publish (an average of $170,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of the city and therefore, has no fiscal impact on the city.

Officials from the **Cape Girardeau 63 School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution to the Cape Giradeau School District. While our analysis focuses on the impacts to our district - we share the same concerns voiced by Mr. Roger Kurtz in his submission to your office regarding the impact of the proposed amendment.

We believe this Amendment has wide ranging financial impacts for Local Government entities who would be required constitutionally to develop expertise on school district evaluation policies before releasing local funds, our analysis will focus the specific costs of the impact of **developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Missouri and similar proposals from Colorado as a basis for analysis.

In general the proposed amendment's costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject, to be used as a basis for evaluation of educators.

To acquire the incredible amount of data necessary to fulfill this goal is a herculean task - **a proven and statistically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed test for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the costing of testing for every child in every subject.

The Cape Girardeau School District:

The Cape Girardeau School District is an accredited district located in Cape Girardeau County, Missouri. The district serves a diverse population.

Our district contains six elementary schools, one junior high-school and one high-school, a total enrolment of 4,122 and 425 teachers.

Enrollment (Prior Year)	Schools	Cert. Staff	Residents	Non-Res.	Total
Elementary Schools	5	163	1,646	122	1,768
Middle Schools	1	55	583	0	583
Jr. High Schools	1	60	575	1	576
High Schools	1	147	1,153	42	1,195
Total	8	425	3,957	165	4,122

Test Development and Implementation Costs and Considerations

Mr. Ellinger's submission requires that every school district develop a set of locally based performance standards a majority of which is based on "quantifiable data":

> **3(g)** Notwithstanding any other section of this constitution, **every school district shall develop and use local performance standards** to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such **standards shall be based on quantifiable student performance data as measured by objective criteria**.

Our assumption is the state would develop a series of "template" standards of evaluation and guide the development of testing tools that could be utilized by our district.

Development:

Test development is a prohibitively expensive undertaking for any school district we would be unable to fund the development of tests to meet the reliability, validity and scope required by this proposal.

Any school district will require defensible research-based measures provided by the state, given the results of these assessments would be the major factor in employment decisions and likely policy makers will later use the data to make funding or accreditation decisions.

Currently, the state of Missouri provides assessments in only two subjects, math and communication arts, for students in grades 3-8 and one year in high school. Science tests are available for one elementary, one middle school grade, and high school biology.

The state paid for the development of the tests, including item and task specification, item authoring, bias and sensitivity checks, psychometric work, piloting, lay out and printing for the paper based 3-8 tests, and computer adaptive work for the high school tests.

The state pays for the scoring of these tests, at .06 per test. Until the recent budget crisis, the cost to score was higher, as Missouri's assessments were not limited to multiple-choice questions as they are now. Previous assessments included constructed response questions where students wrote in short answers, as well as performance

events where students wrote an essay or did multi-step problem solving, such as figuring the cost of a installing a chain link fence for a yard of a given dimension.

In addition, tests need ongoing revisions through the use of parallel questions, so the questions are not the same from year to year, but the knowledge and skill tested remains the same.

In recent years, this annual revision has been limited due to budget restraints. Constructed response items and performance events have been removed from the assessments. In addition, budget cuts have forced DESE to pay the cost of current year assessments out of the next years' funding.

In order to evaluate teachers based on student assessments, you must first have baseline achievement data on each student for that subject. Current growth models can only provide data for 4th - 8th grade students in math and communication arts, because there is not baseline data for third graders. High school courses each consist of distinct content and scores on one course cannot be considered a starting point for another with the possible exception of Algebra I and II.

Massachusetts began to use student growth measured by state assessments in teacher evaluations, and found current assessments only produced data for 17% of teachers. The language in 3 (g) would require annual assessments of pre-K to 8th grade students in every subject. High school courses would require pre-tests at the beginning of the course as well as end of course tests to measure student achievement growth in each course offering.

The following list of courses was taken from the Missouri School Improvement Program 4 Resource Standards, found at www.dese.mo.gov.

Table 1 School Improvement Courses

	Elementary Courses	Middle School Courses
1	Math by grade	Math by grade
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3	Language Arts by grade	Language Arts by grade
4	Social Studies/History by grade	Social Studies/History by grade
5	Science by grade	Science by grade
6	Music by grade	Vocal Music
7	Art by grade	Instrumental Music
8	Physical Education by grade	Art
9	Foreign Language by grade	Physical Education by grade
10	Health by grade	Health
11	Career Awareness by grade	Foreign Language
12	Instrumental Music I and II	Speech
13	Library Skills by grade	Algebra 1
14		Agriculture
15		Family and Consumer Science
16		Industrial Technology
17		Computer Literacy
18		Career Education

Middle school students are required to take the four core subjects, physical education, health, art and music. Some students will also have a stand-alone reading course. This totals nine subjects for one year. Seventh and eighth graders must in addition have access to four exploratory classes, bringing the total courses for them to 13. Some of these courses would only last for 6 weeks, others may last a semester.

Development Costs:

Table 2 illustrates the costs associated with developing new testing regimes from previous RFPs on Smarter Balanced Assessment Consortium website. ***We would expect the state to bear the cost of developing these testing mechanisms. Indeed no testing regime can be considered viable without significant state resources.***

Table 2: RFP for Smarter Balanced Assessment

PROJECT	DETAILS	BID COST Estimate
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SBAC RFP No. 08 1-2012 to 10-2013	Participation and Training Materials	$739,392
SBAC RFP No. 05	Psychometric Services	$3,500,000
SBAC RFP No. 06	Development of Accessibility and Accommodations Policies and Materials	$930,000
SBAC RFP No. 04	SMARTER Balanced Assessment Consortium Request for Proposals to Develop Item and Task Specifications, Style Guide, Bias and Sensitivity Guidelines, and Accessibility and Accommodations Guidelines	$1,500,000
SBAC RFP No. 03	SMARTER Balanced Assessment Consortium II Systems Architecture (word)	$2,000,000
SBAC RFP No. 02	IT Readiness Tool for SBAC and PARCC (word)	$500,000 (2011-14)
SBAC RFP No. 01	Smarter Balanced Assessment Communications RFP	$2.2 million (2011-14
RFP 2010-07 (SBAC RFP)	Comprehensive Assessment Systems Grant - Project Management Partner	Not included

Total for Math and CA		$33,815,113 for 14 tests
Cost per test to develop		*$2,415,365*
Total FY 2013 Cost for 481 new tests		**$1,161,790,565**

Administration Costs:

Administering assessments for pre-K through 2nd grade students is significantly more costly for school districts, as much of this testing must be administered one-on-one. This means the district hires a substitute for the several days it takes the classroom teacher to complete individual student assessments.

On average, Missouri high school students take seven classes a day, one to three of which are semester courses. Older students take more semester courses.

Cost to districts: Cost estimates are based on current charge districts for MAP tests, and testing every student in every subject.

Table 3:Average cost of MAP testing to the Cape Girardeau School District from the State of Missouri

Grade	Total students	Cost per test	Cost to test one subject	Number of subjects	Statewide total
K-6	2,351	$1.80	$4,231.80	9	$38,086.20
7-8	576	$1.80	$1,036.80	7 x 2 tests	$14,515.20
9-12	1,195	$1.80	$2,151.00	8 x 2 tests	$34,416.00
	FY 2013 New costs and reoccurring FY2014				**$87,017.40**

Teacher Evaluation Assumptions and Data:

In developing the cost estimates contained we relied on the experiences other states have had in creating a similar evaluation model prescribed in the proposed amendment. Specifically, the removal of teacher experience as part of compensation 3(f) and the development of new evaluation systems for educators on the district level (3g):

> **3(f) Notwithstanding any provisions of this constitution, no school district which uses seniority or duration of employment as a basis, in whole or in part, to retain, remove, promote or demote teachers shall receive any state funding or local tax revenue.**
>
> **3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria.**

While our analysis will cite information from multiple states - the recent experience of Colorado in developing a remarkably similar system of teacher evaluation and estimating the implementation costs serves as a good exemplar of what Missouri policy makers and budget analysts should expect as they are required to implement sweeping changes to teacher evaluation and compensation. Additionally CO and MO have similarly sized public education systems - and when

ranked nationally are very close in size and scope (See table 4 below).

Table 4: Similarities in the size of public education systems in MO and CO*

	Missouri	National Rank (MO)	Colorado	National Rank (CO)
Average Daily Attendance (2010)	835,780	19	771,938	21
Number of Public High School Graduates '09-'10	62,342	20	46,811	22
Number of Public School Teachers K-12	67,882	14	48,960	23

*NEA Research. (2010). Rankings & Estimates Rankings of the States 2010 and Estimates of School Statistics 2011. http://www.nea.org/assets/docs/HE/NEA_Rankings_and_Estimates010711.pdf

Salary data used in this analysis will assume average pay for a Missouri teacher at $45,317 or 48th in the nation and 81.5% of the national average.

The Colorado Experience:

In May of 2010, Colorado passed Senate Bill 191 which completely changed how public-school educators were evaluated in Colorado. **At the core of the proposal were two policy objectives similar to those in 3(f) and 3(g)** of the current proposal: 1) the removal of duration of employment as a basis of evaluation in whole or in part and 2) replaced with a model where quantifiable student growth/achievement represents at least 50% of the total performance by quantifiable and objective standards. Table 7 below places the proposals for quantifiable measurement side-by-side for comparison:

Table 5: Comparison of Measurement Standard of Ellinger Proposal v. SB 191 Colorado

	Ellinger Missouri Proposal	Senate Bill 191 Colorado
Side-by-side comparison of measurement standards from MO and CO	"3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, **the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria. "**	"Procedures for prioritizing or weighting measures of performance that ensure that measures of student growth represent **at least 50 percent of total performance and are prioritized by technical quality, and that measures of professional practice are prioritized by local objectives."**
Source	***Ellinger Submission. (January 17, 2012). Pg 3**	* Colorado State Board of Education. Report & recommendations; submitted to the Colorado State Board of Education pursuant to SB 10-191. (April 13, 2011). Pg 18 Available online: http://www.cde.state.co.us/EducatorEffectiveness/downloads/Report%20&%20appendices/SCEE_Final_Report.pdf

We believe the process of estimating costs to local school districts used by the Colorado State Board of Education will shed light on the Ellinger proposal and permit an estimate of the fiscal impact to the Cape Girardeau School District.

Translating the Colorado Experience to Missouri:

For purpose of analysis we will assume the following role for the state:

1) Create an exemplar template and evaluation system with a resource bank of evaluation tools.

2) Provide student, teacher, and parent survey instruments and analysis of results to districts.
3) Provide a definition of what constitutes a qualified educator for every subject area and grade level.
4) Develop materials to support professional development.
5) Collect and report evaluation data for the state.

NOTE: None of this is guaranteed or funded under the Ellinger proposal - nor do we attempt in this analysis to associate costs - but it is worth noting that the state would likely need to develop a whole host of example evaluation tools that districts could adopt and such development is likely to be a costly process.

In addition to the items above the state will likely have to develop and provide:

1) Assessment tools from the state need to be available to districts in all subjects, at no cost, and resulting data must be reliable and valid. Districts will recognize that they are allowed to create their own unique assessments, but districts will likely want to use defensible research-based measures provided by the state given the implications the data can have on educators and students.

2) A valid individual teacher and student tracking system needs to be developed and in place provided by the state. Much of the ability for districts to evaluate teacher performance based on at least "50% quantifiable data" will rely on the ability to correctly identify the teacher of record for each student in each subject area and assign attributable changes in performance to the appropriate teacher.

The state-level responsibilities listed above are essential to any successful implementation of the Ellinger proposal.

Startup Costs:

Certain initial costs are likely to be required at the district level prior to the implementation of the new evaluation system. We assume the burden for implementing the state mandates would fall to the **individual school district.** For example we would have to spend time selecting evaluation tools and measurements from the state templates, set up first time data systems, develop an appeals process, and provide comprehensive training for evaluators and educators. Colorado estimate the effort needed to accomplish these tasks is as follows:

Table 6: One Time Costs for each district:

	Selecting Evaluation Tools and Measurements	One time Data Set Up	Developing Appeals Process	Professional Development for all Staff	Professional Development for Evaluators
District Personnel*					
Superintendent				2 days	30 hours
Assistant Superintendent					30 hours
Director		5 days			30 hours
Trainer				3 days	60 hours
Clerical Staff					
IT Technician		5 days			
School Personnel*					
Teachers	5% of all teachers, $100 a day for 5 days			2 days for every teacher	
Committee Teacher Leader	1% of all teachers, $200 a day for 5 days				
Instructional Coach				2 days for every coach	
Principal				2 days for every principal	30 hours for every principal
District/School Costs*					
Legal			$10,000		

Augenblick, Paslaich, and Associates INC. Costing Out the Resources Implications of SB 10-191 in Coloradodo School Districts: Prepared for State Council for Educator Effectiveness. March 2011. Pg 35

Augenblick, Paslaich, and Associates and the Colorado State Board of Education estimate that the initial one-time costs

on average are $53 per student. Given the comparability of Missouri and Colorado (see table 4) we believe that this estimate is applicable to our school system and may be conservative given our average teacher pay and experience level is higher than Colorado's by about 20%.

Ongoing Costs:

For ongoing costs the computation of new expenses that are above and beyond the current requirement set out by regulation or Missouri statute are considered in this section. As such what follows in this section are:

1) Likely tools and measures to be used;
2) The new effort and resources needed; and
3) The ongoing cost for three categories of teachers, (novice, effective, and ineffective).

When considering such a broad and sweeping change of the Missouri education system the usual disclaimers apply - 1) we are anticipating standards based on our experience with DESE and local school boards - **nothing in this document should be viewed as an endorsement of any system of evaluation**, 2) additionally our estimations are based on our best understanding of the initiative and its implementation in our district, and 3) the cost estimate only the amount to evaluate teachers.

Evaluating Teachers:

To evaluate teachers numerous measurers and tools will need to be developed as well as the standards for apply those tools (including but not limited to):

- Observation with pre/post interview

- Examination of lessons, unit plans, assignments and assessments
- Student and Parent feedback
- Peer observation and feedback.
- Teacher self review and interviews
- Analysis of student data and growth.

While these tools can be used with teachers at all levels of experience and ability - allotments must be made for more time and effort to be spent with teachers based on their experience (or lack thereof) and abilities.

The consulting firm of Augenblick, Paslaich, and Associates concluded that teachers are likely to fall into one of the three categories below and require a differing amount of ongoing supervision and evaluation costs. (SEE APPENDIX A - TABLES I-III for breakdown of evaluation and resources for each population of teachers).

Performance Standard	Per Teacher
Novice*	$343 (increased training and data analysis)
Effective	$531 (increased data analysis and frequency of evaluation)
Need Improvement	$3,783 (increased number of teachers identified that require supervision and remediation)

*Boulder Valley School District. SB 191 and you. April 2011

The Cape Girardeau School Districts commitment to quality has allowed us to recruit a corps of 343 highly qualified.

As such we have adjusted our assumptions as follows:

97% (334 teachers) will fit into the "Effective" category.

2.75% (9 teachers) will qualify as "novice"
Only .25% (1 teachers) will fit into the "need improvement" category.

Fiscal Impacts of 3(f) and 3(g) implementation of proposed evaluation model:

Fiscal Year 2013 - 1st year of implementation: Assumes average costs of $53 per student and an even population of 4,122 students. Also assumes 1st year evaluation costs (see Table 9).*

Fiscal Year 2014 - 2nd year of evaluation and increased MAP costs.*

*Assumes state development of template systems of evaluation and testing mechanisms.

Table 7: Estimated Cost to Cape Girardeau Public School District for Evaluation

FY 2013		$ Estimate
Startup Cost assume average of $53 per student	One time Cost Student K-12 Population of Missouri 22,201 (2012)	4,122 x $53 = **$218,466.00**
FY 2013	Increased MAP Costs (Re-occurring)	**$87,017.40**
FY 2013	First Yearly Evaluation: NOVICE evaluation costs	12 x $343 = **$ 4,116.00**

	$343 *	
	First Yearly Evaluation: NEED IMPROVEMENT evaluation costs $3,783	1 x $3,783 = **$3,783.00**
	First Yearly Evaluation: Effective $531	412 x $531 = **$218,772**
Total FY 2013		**$ 452,154.40**
FY 2014	Yearly Reoccurring Evaluation: NOVICE evaluation costs $343 *	12 x $343 = **$ 4,116.00**
	Yearly Reoccurring Evaluation: NEED IMPROVEMENT evaluation costs $3,783	1 x $3,783 = **$3,783.00**
	Yearly Reoccurring Evaluation: Effective $531	412 x $531 = **$218,772**
FY 2014	Increased MAP Costs (Re-occurring)	**$ 87,017.40**
Total FY 2014		**$ 313,688.40**
Total Costs of evaluation program to School District FY 2013-2014		**$765,842.80**

*The National Commission on Teaching and America's Future (NCTAF). Report of Teacher Age and Experience by State (2007-2008). Available via: http://nctaf.org/wp-content/uploads/2012/01/WebAgeandExpbyState07-08.pdf

Officials from the **Hannibal 60 School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution to the Hannibal School District. While our analysis focuses on the impacts to our district – we share the same concerns voiced by Mr. Roger Kurtz in his submission to your office regarding the impact of the proposed amendment.

We believe this Amendment has wide ranging financial impacts for Local Government entities who would be required constitutionally to develop expertise on school district evaluation policies before releasing local funds, our analysis will focus the specific costs of the impact of **developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Missouri and similar proposals from Colorado as a basis for analysis.

In general the proposed amendment's costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject, to be used as a basis for evaluation of educators.

To acquire the incredible amount of data necessary to fulfill this goal is a herculean task – **a proven and statistically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed test for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the cost of testing for every child in every subject.

The Hannibal School District:

The Hannibal School District #60 is rated "accredited with distinction in performance" by the Missouri Department of Elementary and Secondary Education. Additional accreditation comes from the North Central Association of Colleges and Schools at the career center.

The district features a grade configuration of pre-kindergarten, kindergarten and grades one through five in its elementary schools, grades six through eight in its middle school, and grades nine through twelve in its high school. The area career and technical center is also located on school district property. The district is comprised of five elementary attendance centers including Eugene Field, Mark Twain, Oakwood, Stowell, and Veterans. All elementary schools are organized as pre-kindergarten through fifth grade.

Staff members in the district number 564 including 326 certificated and 238 noncertificated members. Of the 326 certificated staff members, 59.4 percent are at or

above the master's degree level. The average teaching experience level in the district is 12.7 years.

Special programs in early childhood education and parenting, guidance and counseling services, health programs, and special education programs are a vital part of the total program of the Hannibal School District. Also provided are remedial services, both during the school term and during a summer school program. A summer enrichment program is also offered to all students. In addition to these programs, a strong well-rounded, extracurricular program including athletics, performing and visual arts, and publications is offered by the district.

There is a strong relationship between the school and community as evidenced by strong parental involvement, support, and partnership with community organizations. Each elementary and the middle school have active parent-teacher organizations and strong booster organizations exist for band, chorus, and athletics. Success in the activity programs and competitions is a source of community pride.

ENROLLMENT TRENDS

The school district enrollment has been steady the past ten years. Enrollment projects indicate a slight but steady increase for the next ten years. There is a possibility of a greater increase in population of school age children if rapid economic growth in the Hannibal area occurs.

OTHER DISTRICT INFORMATION AND FACTS:

- budget for 2011-2012 school year is $32,466,314
- sources of revenues are local and county (45.3%), state (34.9%), and federal (19.8%).
- assessed valuation for 2011 is $283,310,605 and the current tax levy is $3.4199
- enrollment is 3,621 for the 2011-2012 school year.
- teacher salary range for 2011-2012 is $30,900 to $55,130 and the average teacher salary is $39,483

Test Development and Implementation Costs and Considerations

Mr. Ellinger's submission requires that every school district develop a set of locally based performance standards a majority of which is based on "quantifiable data":

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Our assumption is the state would develop a series of "template" standards of evaluation and guide the development of testing tools that could be utilized by our district.

Development:

Test development is a prohibitively expensive undertaking for any school district we would be unable to fund the development of tests to meet the reliability, validity and scope required by this proposal.

Any school district will require defensible research-based measures provided by the state, given the results of these assessments would be the major factor in employment decisions and likely policy makers will later use the data to make funding or accreditation decisions.

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On average, Missouri high school students take seven classes a day, one to three of which are semester courses. Older students take more semester courses.

Cost to districts: Cost estimates are based on current charge districts for MAP tests, and testing every student in every subject.

Table 3:Average cost of MAP testing to districts from state

Grade	Total students	Cost per test	Cost to test one subject	Number of subjects	Statewide total
K-8	2,616	$.90 est.	$2,354.40	9	$21,189.60
9-12	1,005	$.90	$904.50	8 x 2 tests	$14,472.00
	FY 2013 New costs and reoccurring FY2014				**$35,661.60**

Teacher Evaluation Assumptions and Data:

In developing the cost estimates contained we relied on the experiences other states have had in creating a similar evaluation model prescribed in the proposed amendment. Specifically, the removal of teacher experience as part of compensation 3(f) and the development of new evaluation systems for educators on the district level (3g):

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Table 4: Similarities in the size of public education systems in MO and CO*

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replaced with a model where quantifiable student growth/achievement represents at least 50% of the total performance by quantifiable and objective standards. Table 7 below places the proposals for quantifiable measurement side-by-side for comparison:

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Side-by-side comparison of measurement standards from MO and CO	"3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, **the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria.** "	"Procedures for prioritizing or weighting measures of performance that ensure that measures of student growth represent **at least 50 percent of total performance and are prioritized by technical quality, and that measures of professional practice are prioritized by local objectives.**"
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We believe the process of estimating costs to local school districts used by the Colorado State Board of Education will shed light on the Ellinger proposal and permit an estimate of the fiscal impact to the Hannibal School District.

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1) Create an exemplar template and evaluation system with a resource bank of evaluation tools.
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NOTE: None of this is guaranteed or funded under the Ellinger proposal – nor do we attempt in this analysis to associate costs – but it is worth noting that the state would likely need to develop a whole host of example evaluation tools that districts could adopt and such development is likely to be a costly process.

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Table 6: One Time Costs for each district:

	Selecting Evaluation Tools and Measurements	One time Data Set Up	Developing Appeals Process	Professional Development for all Staff	Professional Development for Evaluators
District Personnel[c]					
Superintendent				2 days	30 hours
Assistant Superintendent					20 hours
Director		5 days			10 hours
Trainer				3 days	60 hours
Clerical Staff					
IT Technician		5 days			
School Personnel*					
Teachers	5% of all teachers, $100 a day for 5 days			2 days for every teacher	
Committee Teacher Leader	1% of all teachers, $200 a day for 5 days				
Instructional Coach				2 days for every coach	
Principal				2 days for every principal	30 hours for every principal
District/School Costs*					
Legal			$10,000		

Augenblick, Paslaich, and Associates INC. Costing Out the Resources Implications of SB 10-191 in Coloraodo School Districts: Prepared for State Council for Educator Effectiveness. March 2011. Pg 35

Augenblick, Paslaich, and Associates and the Colorado State Board of Education estimate that the initial one-time costs on average are $53 per student. Given the comparability of Missouri and Colorado (see table 4) we believe that this estimate is applicable to our school system and may be conservative given our average teacher pay and experience level is higher than Colorado's by about 20%.

Ongoing Costs:

For ongoing costs the computation of new expenses that are above and beyond the current requirement set out by regulation or Missouri statute are considered in this section. As such what follows in this section are:

1) Likely tools and measures to be used;
2) The new effort and resources needed; and
3) The ongoing cost for three categories of teachers, (novice, effective, and ineffective).

When considering such a broad and sweeping change of the Missouri education system the usual disclaimers apply – 1) we are anticipating standards based on our experience with DESE and local school boards – **nothing in this document should be viewed as an endorsement of any system of evaluation**, 2) additionally our estimations are based on our best understanding of the initiative and its implementation in our district, and 3) the cost estimate only the amount to evaluate teachers.

Evaluating Teachers:

To evaluate teachers numerous measurers and tools will need to be developed as well as the standards for apply those tools (including but not limited to):

- Observation with pre/post interview
- Examination of lessons, unit plans, assignments and assessments
- Student and Parent feedback
- Peer observation and feedback.
- Teacher self review and interviews
- Analysis of student data and growth.

While these tools can be used with teachers at all levels of experience and ability – allotments must be made for more time and effort to be spent with teachers based on their experience (or lack thereof) and abilities.

The consulting firm of Augenblick, Paslaich, and Associates concluded that teachers are likely to fall into one of the three categories below and require a differing amount of ongoing supervision and evaluation costs. (SEE APPENDIX A - TABLES I-III for breakdown of evaluation and resources for each population of teachers).

Performance Standard	Per Teacher
Novice*	$343 (increased training and data analysis)
Effective	$531 (increased data analysis and frequency of evaluation)
Need Improvement	$3,783 (increased number of teachers identified that require supervision and remediation)

*Boulder Valley School District. SB 191 and you. April 2011

The Hannibal School Districts commitment to quality has allowed us to recruit a corps of 326 highly qualified teachers with an average of 12.7 years of experience.

As such we have adjusted our assumptions as follows:

97% (316 teachers) will fit into the "Effective" category.
2.75% (9 teachers) will qualify as "novice"
Only .25% (1 teachers) will fit into the "need improvement" category.

Fiscal Impacts of 3(f) and 3(g) implementation of proposed evaluation model:

Fiscal Year 2013 – 1st year of implementation: Assumes average costs of $53 per student and an even population of 3,585
students. Also assumes 1st year evaluation costs (see Table 9).*

Fiscal Year 2014 – 2nd year of evaluation and increased MAP costs.*

*Assumes state development of template systems of evaluation and testing mechanisms.

Table 7: Estimated Cost to District for Evaluation

FY 2013		$ Estimate
Startup Cost assume average of $53 per student	One time Cost Student K-12 Population of Missouri 22,201 (2012)	3,621 x $53 = **$191,913.00**
FY 2013	Increased MAP Costs (Re-occurring)	**$35,661.60**
FY 2013	First Yearly Evaluation: NOVICE evaluation costs $343 *	9 x $343 = **$ 3,087.00**
	First Yearly Evaluation: NEED IMPROVEMENT evaluation costs $3,783	1 x $3,783 = **$3,783.00**
	First Yearly Evaluation: Effective $531	316 x $531 = **$167,796.00**
Total FY 2013		**$ 402,240.60**

FY 2014	Yearly Reoccurring Evaluation: NOVICE evaluation costs $343 *	9 x $343 = **$ 3,087.00**
	Yearly Reoccurring Evaluation: NEED IMPROVEMENT evaluation costs $3,783	1 x $3,783 = **$3,783.00**
	Yearly Reoccurring Evaluation: Effective $531	316 x $531 = **$167,796.00**
FY 2014	Increased MAP Costs (Re-occurring)	**$ 35,661.60**
Total FY 2014		**$ 210,327.60**
Total Costs of evaluation program to School District FY 2013-2014		**$612,568.20**

*The National Commission on Teaching and America's Future (NCTAF). Report of Teacher Age and Experience by State (2007-2008). Available via: http://nctaf.org/wp-content/uploads/2012/01/WebAgeandExpbyState07-08.pdf

APPENDIX A
NEW RESOURCES NEEDED BY TEACHER BASED ON DESIGNATION
TABLES PREPARED BY:
Augenblick, Paslaich, and Associates March 2011

TABLE I

New Resources Needed to Evaluate an Effective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation [Formal and Informal]						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards VI		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
District Personnel									
Administrator									1 hr
Clerical Staff								0.5 hr	1 hr
School Personnel									
Teachers									
Instructional Coach									
Principal		7.5 hrs							
Data Manager							3 hrs		
Substitute						1 day at $200			
District/School Costs									
Supplies and Materials									
Other				Cost at State Level					

Note: For resources highlighted in green only two thirds of the cost of that resource is new

TABLE II

New Resources Needed to Evaluate a Novice Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards V		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
District Personnel									
Administrator									1.5 hr
Clerical Staff								0.5 hr	1 hr
School Personnel									
Teachers	.25 day								
Instructional Coach	.05 day*								
Principal	.05 day*								
Data Manager							3 hrs		
Substitute									
District/School Costs									
Supplies and Materials	$5								
Other				Cost at State Level					

* Working with 5 teachers at a time for .25 day, so .05 is attributable to each of those teachers

TABLE III
New Resources Needed to Evaluate a Newly Identified Ineffective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Instructional Improvement	Review of Results/ Rating	Reporting/ Reviewing Evaluation Results
		Standards IV					Standards VI			
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments			
District Personnel										
Administrator										2
Clerical Staff									0.5 hr	1 hr
School Personnel										
Teachers										
Instructional Coach								40 hours		
Principal		30 hrs								
Data Manager							3 hrs			
Substitute						1 day at $200				
District/School Costs										
Course/Workshop Fee								$500		
Supplies and Materials										
Other				Cost at State Level						

Officials from **Rockwood R-VI School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution to the Rockwood R-VI school district. While our analysis focuses on the impacts to our district - we share the same concerns voiced by Mr. Roger Kurtz in his submission to your office regarding the impact of the proposed amendment.

We believe this Amendment has wide ranging financial impacts for Local Government entities who would be required constitutionally to develop expertise on school district evaluation policies before releasing local funds. Our analysis will focus the specific costs of the impact of **developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Missouri and similar proposals from Colorado as a basis for analysis.

In general the proposed amendments costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject, to be used as a basis for evaluation of educators.

To acquire the incredible amount of data necessary to fulfill this goal is a herculean task - **a proven and statistically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed tests for a handful of core subjects and administers them periodically in a students progression from kindergarten to the 12th grade. This allows a real and accurate basis for the costing of testing for every child in every subject.

The Rockwood School District:

There is an advantage to being a part of the Rockwood School District. This premier school district located in West St. Louis County has high student achievement, outstanding teachers and staff, and great community support.

Our mission of doing whatever it takes to ensure all students realize their potential is at the center of our work. In Rockwood, we want every child to succeed. The Rockwood R-VI school district is one of the top performing school districts in Missouri and the nation. With a graduation rate of 94.9% the Department of Elementary and Secondary Education notes our district as Distinction in Performance with High Achievement , additionally we are one of the best financially managed districts in the United States receiving a Moodys bond rating of AA2 and a Standard & Poors rating o f AAA.

We service a large and diverse population with:

19 Elementary Schools
6 Middle Schools
4 High Schools
10 National Blue Ribbon Schools
14 Missouri Gold Star Schools of Excellence
8 National Schools of Character
9 Missouri Schools of Character

With: Separate Campuses for Gifted, Early Childhood and Alternative High School Education

The district educates and serves over 22,500 students (Pre-k - 12).

Test Development and Implementation Costs and Considerations

Mr. Ellingers submission requires that every school district develop a set of locally based performance standards a majority of which is based on quantifiable data :

> 3(g) Notwithstanding any other section of this constitution, **every school district shall develop and use local performance standards** to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such **standards shall be based on quantifiable student performance data as measured by objective criteria**.

Our assumption is the state would develop a series of template standards of evaluation and guide the development of testing tools that could be utilized by our district.

Development:

Test development is a prohibitively expensive undertaking for any school district. We would be unable to fund the development of tests to meet the reliability, validity and scope required by this proposal.

Any school district will require defensible research-based measures provided by the state. Given that the results of these assessments would be the major factor in employment decisions, it is likely policy makers will later use the data to make funding or accreditation decisions.

Currently, the state of Missouri provides assessments in only two subjects, math and communication arts, for students in grades 3-8 and one year in high school. Science tests are available for one elementary, one middle school grade, and high school biology.

The state paid for the development of the tests, including item and task specification, item authoring, bias and sensitivity checks, psychometric work, piloting, lay out and printing for the paper based 3-8 tests, and computer adaptive work for the high school tests.

The state pays for the scoring of these tests at $.06 per test. Until the recent budget crisis, the cost to score was higher as Missouris assessments were not limited to multiple-choice questions as they are now. Previous assessments included constructed response questions where students wrote in short answers, as well as performance events where students wrote an essay or did multi-step problem solving.

In addition, tests need ongoing revisions through the use of parallel questions, so the questions are not the same from year to year, but the knowledge and skill tested remains the same.

In recent years, this annual revision has been limited due to budget restraints. Constructed response items and performance events have been removed from the assessments. In addition, budget cuts have forced DESE to pay the cost of current year assessments out of the next years funding.

In order to evaluate teachers based on student assessments, you must first have baseline achievement data on each student for that subject. Current growth models can only provide data for 4th - 8th grade students in math and communication

arts, because there is not baseline data for third graders. High school courses each consist of distinct content, therefore scores on one course cannot be considered a starting point for another with the possible exception of Algebra I and II.

Massachusetts began to use student growth measured by state assessments in teacher evaluations and found current assessments only produced data for 17% of teachers. The language in 3 (g) would require annual assessments of pre-K to 8th grade students in every subject. High school courses would require pre-tests at the beginning of the course as well as end of course tests to measure student achievement growth in each course offering.

The following list of courses was taken from the Missouri School Improvement Program 4 Resource Standards, found at www.dese.mo.gov.

Table 1 School Improvement Courses

	Elementary Courses	Middle School Courses
1	Math by grade	Math by grade
2	Reading by grade	Reading by grade
3	Language Arts by grade	Language Arts by grade
4	Social Studies/History by grade	Social Studies/History by grade
5	Science by grade	Science by grade
6	Music by grade	Vocal Music
7	Art by grade	Instrumental Music
8	Physical Education by grade	Art
9	Foreign Language by grade	Physical Education by grade
10	Health by grade	Health
11	Career Awareness by grade	Foreign Language
12	Instrumental Music I and II	Speech
13	Library Skills by grade	Algebra 1
14		Agriculture
15		Family and Consumer Science
16		Industrial Technology
17		Computer Literacy
18		Career Education

Middle school students are required to take the four core subjects, physical education, health, art and music. Some students will also have a stand-alone reading course. This totals nine subjects for one year. Seventh and eighth graders must, in addition, have access to four exploratory classes, bringing the total courses for them to 13. Some of these courses would only last for 6 weeks, others may last a semester.

Development Costs:

Table 2 illustrates the costs associated with developing new testing regimes from previous RFPs on Smarter Balanced Assessment Consortium website. ***We would expect the state to bear the cost of developing these testing mechanisms. Indeed no testing regime can be considered viable without significant state resources.***

Table 2: RFP for Smarter Balanced Assessment

PROJECT	DETAILS	BID COST Estimate
SBAC RFP No. 14	SBAC Pilot Item/Task/Stimulus Research Development and Reviews	$19,000,000
SBAC RFP No. 07	Item Authoring and Item Pool Application	$1,988,000
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*Source: DESE - District Report Card 2011, 096091 District Code

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Assistant Superintendent					20 hours
Director		5 days			10 hours
Trainer				3 days	30 hours
Clerical Staff[2]					
IT Technician		5 days			
School Personnel[3]					
Teachers	5% of all teachers, $150 a day for 5 days			2 days for every teacher	
Curriculum coach/Leader	1% of all teachers, $250 a day for 5 days				
Instructional Coach				2 days for every coach	
Principal				2 days for every principal	50 hours for every principal
District/School Costs[4]					
Legal			$10,000		

Augenblick, Paslaich, and Associates INC. Costing Out the Resources Implications of SB 10-191 in Coloradoo School Districts: Prepared for State Council for Educator Effectiveness. March 2011. Pg 35

Augenblick, Paslaich, and Associates and the Colorado State Board of Education estimate that the initial one-time costs on average are $53 per student. Given the comparability of Missouri and Colorado (see table 4) we believe that this estimate is applicable to our school system and may be conservative given our average teacher pay and experience level is higher than Colorados by about 20%.

Ongoing Costs:

For ongoing costs the computation of new expenses that are above and beyond the current requirement set out by

regulation or Missouri statute are considered in this section. As such what follows in this section are:

1) Likely tools and measures to be used;
2) The new effort and resources needed; and
3) The ongoing cost for three categories of teachers, (novice, effective, and ineffective).

When considering such a broad and sweeping change of the Missouri education system the usual disclaimers apply - 1) we are anticipating standards based on our experience with DESE and local school boards - **nothing in this document should be viewed as an endorsement of any system of evaluation**, 2) additionally our estimations are based on our best understanding of the initiative and its implementation in our district, and 3) the cost estimate is only for the amount to evaluate teachers.

Evaluating Teachers:

To evaluate teachers numerous measures and tools will need to be developed as well as the standards for applying those tools (including but not limited to):

- Observation with pre/post interview
- Examination of lessons, unit plans, assignments and assessments
- Student and Parent feedback
- Peer observation and feedback
- Teacher self review and interviews
- Analysis of student data and growth

While these tools can be used with teachers at all levels of experience and ability - allotments must be made for more time and effort to be spent with teachers based on their experience (or lack thereof) and abilities.

The consulting firm of Augenblick, Paslaich, and Associates concluded that teachers are likely to fall into one of the three categories below and require a differing amount of ongoing supervision and evaluation costs. (SEE APPENDIX A - TABLES I-III for breakdown of evaluation and resources for each population of teachers).

Performance Standard	Per Teacher
Novice*	$343 (increased training and data analysis)
Effective	$531 (increased data analysis and frequency of evaluation)
Need Improvement	$3,783 (increased number of teachers identified that require supervision and remediation)

*Boulder Valley School District. SB 191 and you. April 2011

Rockwood R-VIs exceptional commitment to quality has allowed us to recruit a corps of 1,480 highly qualified and experienced teachers. Teachers designated as Highly Qualified Teachers under the No Child Left Behind Act teach 100% of our classes. As such we have adjusted our assumptions as follows:

97% (1,435 teachers) will fit into the Effective category.
2.75% (41 teachers) will qualify as novice
Only .25% (4 teachers) will fit into the need improvement category.

Fiscal Impacts of 3(f) and 3(g) implementation of proposed evaluation model:

Fiscal Year 2013 - 1st year of implementation: Assumes average costs of $53 per student and a population of 22,201 students. Also assumes 1st year evaluation costs (see Table 9).*

Fiscal Year 2014 - 2nd year of evaluation and increased MAP costs.*

*Assumes state development of template systems of evaluation and testing mechanisms.

Table 7: Estimated Cost to District for Evaluation

FY 2013		$ Estimate
Startup Costs assume average of $53 per student	One time Cost for Student K-12 Population of 22,201	22,201 x $53 = **$1,176,653.00**
FY 2013	Increased MAP Costs (Re-occurring)	**$222,667.00**
FY 2013	First Yearly Evaluation: NOVICE evaluation costs $343 *	41 x $343 = **$ 14,063.00**
	First Yearly Evaluation: NEED IMPROVEMENT evaluation costs $3,783	4 x $3,783 = **$15,132.00**
	First Yearly Evaluation: EFFECTIVE $531	1,436 x $531 = **$762,516.00**
Total FY 2013		**$ 2,191,031.00**

FY 2014	Reoccurring Yearly Evaluation: NOVICE evaluation costs $343 *	41 x $343 = **$ 14,063.00**
	Reoccurring Yearly Evaluation: NEED IMPROVEMENT evaluation costs $3,783	4 x $3,783 = **$15,132.00**
	Reoccurring Yearly Evaluation: EFFECTIVE $531	1,436 x $531 = **$762,516.00**
FY 2014	Increased MAP Costs (Re-occurring)	**$222,667.00**
Total FY 2014		**$1,014,378.00**
Total Costs of evaluation program to School District FY 2013-2014		**$3,205,409.00**

*The National Commission on Teaching and America's Future (NCTAF). Report of Teacher Age and Experience by State (2007-2008). Available via: http://nctaf.org/wp-content/uploads/2012/01/WebAgeandExpbyState07-08.pdf

APPENDIX A

NEW RESOURCES NEEDED BY TEACHER BASED ON DESIGNATION

TABLES PREPARED BY:

Augenblick, Paslaich, and Associates March 2011

TABLE 1

New Resources Needed to Evaluate an Effective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standard VI		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
District Personnel									
Administrator									
Clerical Staff								0.5 hr	
School Personnel									
Teachers									
Supervision System									
Principal									
Data Manager								3 hrs	
Substitutes						1 day at $300			
District/School Costs									
Supplies and Materials									
Other				Cost at State Level					

Note: New resources highlighted in green are those that will be the cost of that resource is new.

TABLE II

New Resources Needed to Evaluate a Novice Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standard V		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
District Personnel									
Administrator									1.5 hr
Clerical Staff								0.5 hr	1 hr
School Personnel									
Teacher	.25 day								
Instructional Coach	.05 day*								
Principal	.05 day*								
Data Manager							3 hrs		
Substitute									
District/School Costs									
Supplies and Materials	$5								
Other				Cost at State Level					

* Working with 5 teachers at a time for .25 day, to .05 reimbursed at cost of those teachers

TABLE III

New Resources Needed to Evaluate a Newly Identified Ineffective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Instructional Improvement	Review of Results/ Rating	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standard V			
		Observations Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments			
District Personnel										
Administrator										7
Clerical Staff									0.5 hr	1 hr
School Personnel										
Teacher										
Instructional Coach								60 hours		
Principal		30 hrs								
Data Manager							3 hrs			
Substitute						1 day at $200				
District/School Costs										
Peer/Mentor Stipend								$500		
Supplies and Materials										
Other				Cost at State Level						

Officials from **Linn State Technical College** indicated based on the information presented, there appears to be no fiscal impact to their college.

Officials from the **Harris-Stowe State University** indicated the language included in the petition has no fiscal impact on their university as it only makes reference to school districts not public higher education institutions.

Officials from the **Missouri Western State University** indicated there is no fiscal impact.

The **Missouri Association of School Administrators (submitted by Roger Kurtz, Executive Director)** provided information as an opponent of this initiative petition.

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution. While we believe this Amendment has wide ranging financial impacts for Missouri State Government, a chronically underfunded Department of Elementary and Secondary Education (DESE), and local government entities who would be required constitutionally to develop expertise on school district evaluation policies before releasing funds, our analysis will focus the specific costs of **developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Missouri and similar proposals from Colorado as a basis for analysis.

In general, the proposed amendment's costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject, to be used as a basis for evaluation of educators. To acquire the incredible amount of data necessary to fulfill this goal is a herculean task – **a proven and scientifically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed test for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the costing of testing for every child in every subject.

Test Development and Implementation Costs and Considerations

Mr. Ellinger's submission requires that every school district develop a set of locally based performance standards a majority of which is based on "quantifiable data":

> **3(g)** Notwithstanding any other section of this constitution, **every school district shall develop and use local performance standards** to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such **standards shall be based on quantifiable student performance data as measured by objective criteria**.

Our assumption is the state would develop a series of "template" standards of evaluation and guide the development of testing tools that could be utilized by individual districts.

Development:

Districts will recognize that the language allows them to create their own unique assessments, but no district would be able to fund the development of tests to meet the reliability, validity and scope required by this proposal. Districts will require defensible research-based measures provided by the state, given the results of these assessments would be the major factor in employment decisions. (Notably, the validity of state assessments for use in teacher evaluations has not been studied.)

Currently, the state of Missouri provides assessments in only two subjects, math and communication arts, for students in grades 3-8 and one year in high school. Science tests are available for one elementary, one middle school grade, and high school biology. **The state paid for the development of the tests, including item and task specification, item authoring, bias and sensitivity checks, psychometric work, piloting, lay out and printing for the paper based 3-8 tests, and computer adaptive work for the high school tests.** The state pays for the scoring of these tests, at .06 per test. Until the recent budget crisis, the

cost to score was higher, as Missouri's assessments were not limited to multiple-choice questions as they are now. Previous assessments included constructed response questions where students wrote in short answers, as well as performance events where students wrote an essay or did multi-step problem solving, such as figuring the cost of a installing a chain link fence for a yard of a given dimension.

In addition, tests need ongoing revisions through the use of parallel questions, so the questions are not the same from year to year, but the knowledge and skill tested remains the same.

In recent years, this annual revision has been limited due to budget restraints. Constructed response items and performance events have been removed from the assessments. In addition, budget cuts have forced DESE to pay the cost of current year assessments out of the next year's funding.

In order to evaluate teachers based on student assessments, you must first have baseline achievement data on each student for that subject. **Current growth models can only provide data for 4th – 8th grade students in math and communication arts, because there is no baseline data for third graders. High school courses each consist of distinct content and scores on one course cannot be considered a starting point for another with the possible exception of Algebra I and II.**

Massachusetts began to use student growth measured by state assessments in teacher evaluations, and found current assessments only produced data for 17% of teachers. **The language in 3 (g) would require annual assessments of pre-K to 8th grade students in every subject. High school courses would require pre-tests at the beginning of the course as well as end of course tests to measure student achievement growth in each course offering.**

The following list of courses was taken from the Missouri School Improvement Program 4 Resource Standards, found at www.dese.mo.gov.

Table 1 School Improvement Courses

	Elementary Courses	Middle School Courses
1	Math by grade	Math by grade
2	Reading by grade	Reading by grade
3	Language Arts by grade	Language Arts by grade
4	Social Studies/History by grade	Social Studies/History by grade
5	Science by grade	Science by grade
6	Music by grade	Vocal Music
7	Art by grade	Instrumental Music
8	Physical Education by grade	Art
9	Foreign Language by grade	Physical Education by grade
10	Health by grade	Health
11	Career Awareness by grade	Foreign Language
12	Instrumental Music I and II	Speech
13	Library Skills by grade	Algebra 1
14		Agriculture
15		Family and Consumer Science
16		Industrial Technology
17		Computer Literacy
18		Career Education

Middle school students are required to take the four core subjects, physical education, health, art and music. Some students will also have a stand-alone reading course. This totals nine subjects for one year. Seventh and eighth graders must in addition have access to four exploratory classes, bringing the total courses for them to 13. Some of these courses would only last for 6 weeks, others may last a semester.

High school courses would require a pre-test and an end-of-course test for each subject offered. Jefferson City High School offers 236 unique courses. That would require the development and administration of 472 tests, only 8 of which are currently available.

Development Costs:

Table 2 illustrates the costs associated with developing new testing regimes from previous RFPs on Smarter Balanced Assessment Consortium website.

Table 2: RFP for Smarter Balanced Assessment

PROJECT	DETAILS	BID COST Estimate
SBAC RFP No. 14	SBAC Pilot Item/Task/Stimulus Research Development and Reviews	$19,000,000
SBAC RFP No. 07	Item Authoring and Item Pool Application	$1,988,000
SBAC RFP No. 09	Test Blueprint and Computer Adaptive Test Specifications	$1,457,721
SBAC RFP No. 08 1-2012 to 10-2013	Participation and Training Materials	$739,392
SBAC RFP No. 05	Psychometric Services	$3,500,000
SBAC RFP No. 06	Development of Accessibility and Accommodations Policies and Materials	$930,000
SBAC RFP No. 04	SMARTER Balanced Assessment Consortium Request for Proposals to Develop Item and Task Specifications, Style Guide, Bias and Sensitivity Guidelines, and Accessibility and Accommodations Guidelines	$1,500,000
SBAC RFP No. 03	SMARTER Balanced Assessment Consortium II Systems Architecture (word)	$2,000,000
SBAC RFP No. 02	IT Readiness Tool for SBAC and PARCC (word)	$500,000 (2011-14)
SBAC RFP No. 01	Smarter Balanced Assessment Communications RFP	$2.2 million (2011-14

RFP 2010-07 (SBAC RFP)	Comprehensive Assessment Systems Grant – Project Management Partner	Not included
Total for Math and CA		$33,815,113 for 14 tests
Cost per test to develop		*$2,415,365*
Total FY 2013 Cost for 481 new tests		**$1,161,790,565**

Administration Costs:

Administering assessments for pre-K through 2nd grade students is significantly more costly for school districts, as much of this testing must be administered one-on-one. This means the district hires a substitute for the several days it takes the classroom teacher to complete individual student assessments.

Cost to districts: Cost estimates are based on current charge districts for MAP tests, and testing every student in every subject.

Table 3:Average cost of MAP testing to districts from state

Grade	Total students	Cost per test	Statewide total one subject	Number of subjects	Statewide total
Pre-K	29,141 (2011)	$.90 est.	$26,227	6	$157,362
K	66,000	$.90 est.	$59,400	9	$534,600
1	66,000	$.90 est.	$59,400	9	$534,600
2	66,000	$.90 est.	$59,400	9	$534,600
3	66,000	$0.90	$59,400	9	$534,600
4	66,000	$0.90	$59,400	9	$534,600
5	66,000	$0.90	$59,400	9	$534,600
6	66,000	Free for math and CA	$59,400 for additional subjects	9	$534,600
7	66,000	$0.90	$59,400	13	$772,200

8	66,000	$1.80	$118,800	13	$1,544,400
TOTAL # of subject tests that will be required by Ellinger petition in K-8				95	$6,216,162
Current policies only require the administration of 12 tests in the K-8 grade level.				12	$712,800
	83 new test administrations for K-8 grade levels FY 2013 New costs and reoccurring FY 2014			**83 new tests**	**$5,503,362**

On average, Missouri high school students take seven classes a day, one to four of which are semester courses. Older students take more semester courses.

Table 4: Average Cost per Test Applied to New Subject Areas (Statewide)

Grade	Students	Cost per test	Statewide one test	Number of subjects	Statewide total
9	66,000	$.90	$59,400	8 x 2 tests	$950,400
10	66,000	$.90	$59,400	8 x 2 tests	$950,400
11	66,000	$.90	$59,400	9 x 2 tests	$1,069,200
12	66,000	$.90	$59,400	9 x 2 tests	$1,069,200
Total	Total all costs if Ellinger Petition becomes law.				$4,039,200
Current total: Schools only pay for 3 administered test in current system: $1.80 @ for 3 subjects					$178,200
Total new cost					**$3,861,000**

State expenditures on MAP and EOC tests in FY 2012 are 10.5 million, covering 22 tests: 3rd to 8th grade math, 3rd to 8th grade communication arts, 5th and 8th grade science, and eight high school end-of-course tests. This averages to $477,273 per test.

Table 5: Cost of Expanded State Expenditures on MAP and EOC tests using FY 2012 costs

Number of assessments	Cost per assessment	Total cost to state
22 current	$477,273 currently	$10.5 million
95 (pre-K to 8th grade)	$477,273	$45,340,935
236 x 2 (one large high school)	$477,273	$225,272,856
Total new assessments 545	**$477,273**	**$260,113,785**

Teacher Evaluation Assumptions and Data:

In developing the cost estimates contained, we relied on the experiences other states have had in creating a similar evaluation model prescribed in the proposed amendment. Specifically, the removal of teacher experience as part of compensation 3(f) and the development of new evaluation systems for educators on the district level (3g):

> **3(f) Notwithstanding any provisions of this constitution, no school district which uses seniority or duration of employment as a basis, in whole or in part, to retain, remove, promote or demote teachers shall receive any state funding or local tax revenue.**
>
> **3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria.**

While our analysis will cite information from multiple states - the recent experience of Colorado in developing a remarkably similar system of teacher evaluation and estimating

the implementation costs serves as a good exemplar of what Missouri policy makers and budget analysts should expect as they are required to implement sweeping changes to teacher evaluation and compensation. Additionally CO and MO have similarly sized public education systems – and when ranked nationally are very close in size and scope (See table 6 below).

Table 6: Similarities in the size of public education systems in MO and CO*

	Missouri	National Rank (MO)	Colorado	National Rank (CO)
Average Daily Attendance (2010)	835,780	19	771,938	21
Number of Public High School Graduates '09-'10	62,342	20	46,811	22
Number of Public School Teachers K-12	67,882	14	48,960	23

*NEA Research. (2010). Rankings & Estimates Rankings of the States 2010 and Estimates of School Statistics 2011. http://www.nea.org/assets/docs/HE/NEA_Rankings_and_Estimates010711.pdf

Salary data used in this analysis will assume average pay for a Missouri teacher plus 34% to included benefits and other employer obligations. The current average salary for a Missouri teacher is $45,317 or 48th in the nation and 81.5% of the national average.

The Colorado Experience:

In May of 2010, Colorado passed Senate Bill 191 which completely changed how public-school educators were evaluated in Colorado. **At the core of the proposal were two policy objectives similar to those in 3(f) and 3(g)** of the current proposal: 1) the removal of duration of employment as a basis of evaluation in whole or in part and 2) replaced with a model where quantifiable student growth/achievement represents at least 50% of the total performance by quantifiable and objective standards. Table 7 places the proposals for quantifiable measurement side-by-side for comparison:

Table 7: Comparison of Measurement Standard of Ellinger Proposal v. SB 191 Colorado

	Ellinger Missouri Proposal	**Senate Bill 191 Colorado**
Side-by-side comparison of measurement standards from MO and CO	"3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, **the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria. "**	"Procedures for prioritizing or weighting measures of performance that ensure that measures of student growth represent **at least 50 percent of total performance and are prioritized by technical quality, and that measures of professional practice are prioritized by local objectives."**
Source	***Ellinger Submission. (January 17, 2012). Pg 3**	* Colorado State Board of Education. Report & recommendations; submitted to the Colorado State Board of Education pursuant to SB 10-191. (April 13, 2011). Pg 18 Available online: http://www.cde.state.co.us/EducatorEffectiveness/downloads/Report%20&%20appendices/SCEE_Final_Report.pdf

We believe the process of estimating costs to local school districts used by the Colorado State Board of Education will shed light on the Ellinger proposal and permit an estimate of the fiscal impact to school districts in Missouri.

Translating the Colorado Experience to Missouri:

In preparation for the transition to the proposed evaluation system for teachers, the Colorado State Board of Education spent over a year building consensus with education stakeholders about how the evaluation system would develop and preparing districts for its implementation – part of that process was a thorough analysis by the state to develop a teacher evaluation system school districts could use as a template and for preparing administrators for the transition. None of which is guaranteed by the Ellinger proposal to occur – however for purpose of analysis we will assume the following role for the state:

1) Create an exemplar template and evaluation system with a resource bank of evaluation tools.
2) Provide student, teacher, and parent survey instruments and analysis of results to districts.
3) Provide a definition of what constitutes a qualified educator for every subject area and grade level.
4) Develop materials to support professional development.
5) Collect and report evaluation data for the state.

NOTE: None of this is guaranteed or funded under the Ellinger proposal – nor do we attempt in this analysis to associate costs – but it is worth noting that the state would likely need to develop a whole host of example evaluation tools that districts could adopt and such development is likely to be a costly process.

In addition to the items above the state will likely have to develop and provide:

1) Assessment tools from the state need to be available to districts in all subjects, at no cost, and resulting data must be reliable and valid. Districts will recognize that they are allowed to create their own unique assessments, but districts will likely want to use defensible research-based measures provided by the state given the implications the data can have on educators and students.

2) A valid individual teacher and student tracking system needs to be developed and in place provided by the state. Much of the ability for districts to evaluate teacher performance based on at least "50% quantifiable data" will rely on the ability to correctly identify the teacher of record for each student in each subject area and assign attributable changes in performance to the appropriate teacher.

Startup Costs:

Certain initial costs are likely to be required at the district level prior to the implementation of the new evaluation system. We assume the burden for implementing the state mandates would fall to **individual school districts**. For example, districts would have to spend time selecting evaluation tools and measurements from the state templates, set up first time data systems, develop an appeals process, and provide comprehensive training for evaluators and educators. Colorado estimates the effort needed to accomplish these tasks is as follows:

Table 8: One Time Costs for each district:

	Selecting Evaluation Tools and Measurements	One time Data Set Up	Developing Appeals Process	Professional Development for all Staff	Professional Development for Evaluators
District Personnel*					
Superintendent				2 days	30 hours
Assistant Superintendent					20 hours
Director		5 days			30 hours
Trainer				3 days	60 hours
Clerical Staff					
IT Technician		5 days			
School Personnel*					
Teachers	5% of all teachers, $100 a day for 5 days			2 days for every teacher	
Committee Teacher Leader	1% of all teachers, $200 a day for 5 days				
Instructional Coach				2 days for every coach	
Principal				2 days for every principal	30 hours for every principal
District/School Costs*					
Legal			$10,000		

Augenblick, Paslaich, and Associates INC. Costing Out the Resources Implications of SB 10-191 in Coloraodo School Districts: Prepared for State Council for Educator Effectiveness. March 2011. Pg 35

Augenblick, Paslaich, and Associates and the Colorado State Board of Education estimate that the initial one-time costs on average are $53 per student. Given the comparability of Missouri and Colorado (see table 1) we believe that this estimate is applicable to our

school system and may be conservative given Missouri has a full 350 more school districts then CO.

Ongoing Costs:

For ongoing costs the computation of new expenses that are above and beyond the current requirement set out by regulation or Missouri statute are considered in this section. As such what follows in this section are:

1) Likely tools and measures to be used;
2) The new effort and resources needed; and
3) The ongoing cost for three categories of teachers, (novice, effective, and ineffective).

When considering such a broad and sweeping change of the Missouri education system the usual disclaimers apply – 1) we are anticipating standards based on our experience with DESE and local school boards **– nothing in this document should be viewed as an endorsement of any system of evaluation,** 2) additionally our estimations are based on an average school district in an average resource environment, and 3) the cost estimate only the amount to evaluate teachers (not administrators or any other group).

Evaluating Teachers:

To evaluate teachers numerous measurers and tools will need to be developed as well as the standards for apply those tools (including but not limited to):

- Observation with pre/post interview
- Examination of lessons, unit plans, assignments and assessments
- Student and Parent feedback

- Peer observation and feedback.
- Teacher self review and interviews
- Analysis of student data and growth.

While these tools can be used with teachers at all levels of experience and ability – allotments must be made for more time and effort to be spent with teachers based on their experience (or lack thereof) and abilities.

The consulting firm of Augenblick, Paslaich, and Associates concluded that teachers are likely to fall into one of the three categories below and require a differing amount of ongoing supervision and evaluation costs. (SEE APPENDIX A - TABLES I-III for breakdown of evaluation and resources for each population of teachers).

Performance Standard	Per Teacher
Novice*	$343 (increased training and data analysis)
Effective	$531 (increased data analysis and frequency of evaluation)
Need Improvement	$3,783 (increased number of teachers identified that require supervision and remediation)

*Boulder Valley School District. SB 191 and you. April 2011

Fiscal Impacts of 3(f) and 3(g) implementation of proposed evaluation model:

Fiscal Year 2013 – 1st year of implementation: Assumes average costs of $53 per student and an even Missouri Public School Population of 903,423 students.

Fiscal Year 2014 – 1st year of evaluation. Assumes A novice teacher has less than 3 years experience (approximately 14.5% of 67,882) and assumes that only .5% of 62,342 need improvement (See Table 9 for overall costs).

Table 9: Estimated Cost to District for Evaluation

FY 2013		$ Estimate
Startup Cost assume average of $53 per student (Pg 9)	One time Cost Student K-12 Population of Missouri 903,423 (2010)	903,423 x $53 = **$47,881,419**
FY 2014	First Round of Evaluation: NOVICE evaluation costs $343 *	14.5% x 67,882 x $343 = **$ 3,376,111**
	First Round of Evaluation: NEED IMPROVEMENT evaluation costs $3,783	0.5% x 67,882 x $3,783 = **$12,839,880**
	First Round of Evaluation: Effective $531	80% x 67,882 x $531 = **$28,836,274**
Total Costs of evaluation program to School Districts	One Time Expenses Plus + First time evaluation	**$ 92,933,684**

*The National Commission on Teaching and America's Future (NCTAF). Report of Teacher Age and Experience by State (2007-2008). Available via: http://nctaf.org/wp-content/uploads/2012/01/WebAgeandExpbyState07-08.pdf

Cost Summary:

Mr. Ellinger's proposal is a blunt instrument wielded with broad and far-reaching language. The proposed amendment imposes a requirement to evaluate students and teachers based on quantifiable data creating a chain of unintended consequences. The state and districts will have to develop a series of new tests for every subject from math and reading

to home economics and wood shop. Tests used to evaluate student progress are expensive and scientifically rigorous instruments that must bear heavy scrutiny from a number of stakeholders. Should the state and school districts be mandated, the costs quickly explode. Table 10 below summarizes our estimate of costs in the next two fiscal years.

Table 10 Costs FY2013-2014

FY2013 (First Year)

State:

FY 2013 (First Year Costs)		$ Estimate
Test Development all subjects and all grades:	Based on Previous RFP's Smarter Balanced Assessment (See Table 2)	**$1,161,790,565**
FY 2013		$ Estimate
Startup Cost assume average of $53 per student (Pg 9)	One time Cost Student K-12 Population of Missouri 903,423 (2010) (See Table 9)	903,423 x $53 = **$47,881,419**
FY 2013		$ Estimate
Cost to State for 545 new assessments. (Reoccurring)	See table 5 State Costs for MAP / EOC Admin	**$260,113,785**
Total		**$1,469,785,769**

School Districts:

FY 2013		$ Estimate
Additional MAP Testing (reoccurring)	Based on previous costs to districts (Table 3 +4)	$5,503,362 + $3,861,000 = **$9,364,362**
FY 2013		$ Estimate
Startup Cost assume average of	One time Cost Student K-12	903,423 x $53 =

$53 per student	Population of Missouri 903,423 (2010)	**$47,881,419**
FY 2013		$ Estimate
Teacher Evaluations First Round (Re-occurring expense)	See Table 9 sum of all evaluations	**$45,052,265**
Total		**$102,298,046**

FY 2014 (Second Year)

State:

FY 2014		$ Estimate
Cost to State for 545 new assessments. (Reoccurring)	See table 5 State Costs for MAP / EOC Admin	**$260,113,785**
Total		**$260,113,785**

School Districts:

FY 2014		$ Estimate
Additional MAP Testing (reoccurring)	Based on previous costs to districts (Table 3 +4)	$5,503,362 + $3,861,000 = **$9,364,362**
FY 2014		$ Estimate
Teacher Evaluations Re-occurring expense	See Table 9 sum of all evaluations	**$45,052,265**
Total		**$54,416,627**

Total Costs State And Districts FY 2013 = **$ 1,572,083,815**

Total Costs State And Districts FY 2014 = **$ 314,530,412**

APPENDIX A

NEW RESOURCES NEEDED BY TEACHER BASED ON DESIGNATION

TABLES PREPARED BY:

Augenblick, Paslaich, and Associates March 2011

TABLE I

New Resources Needed to Evaluate an Effective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation [Formal and Informal]						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards VI		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
District Personnel									
Administrator									1 hr
Clerical Staff								0.5 hr	1 hr
School Personnel									
Teachers									
Instructional Coach									
Principal		.05 hrs							
Data Manager							3 hrs		
Substitute						1 day at $100			
District/School Costs									
Supplies and Materials									
Other				Cost at State Level					

Note: For resources highlighted in green only two thirds of the cost of that resource is new

TABLE II
New Resources Needed to Evaluate a Novice Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards V		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
District Personnel									
Administrator									1.5 hr
Clerical Staff								0.5 hr	1 hr
School Personnel									
Teachers	.25 day								
Instructional Coach	.05 day*								
Principal	.05 day*								
Data Manager							3 hrs		
Substitute									
District/School Costs									
Supplies and Materials	$5								
Other				Cost at State Level					

* Working with 3 teachers at a time for .25 day, so .05 is attributable to each of those teachers

TABLE III

New Resources Needed to Evaluate a Newly Identified Ineffective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Instructional Improvement	Review of Results/ Rating	Reporting/ Reviewing Evaluation Results
		Standards IV					Standards VI			
		Observations, Pre/Post nterviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments			
District Personnel										
Administrator										2
Clerical Staff									0.5 hr	1 hr
School Personnel										
Teachers										
Instructional Coach								40 hours		
Principal		30 hrs								
Data Manager							3 hrs			
Substitute						1 day at $300				
District/School Costs										
Course/Workshop Fee								$900		
Supplies and Materials										
Other				Cost at State Level						

The State Auditor's office did not receive a response from the **Attorney General's office,** the **Department of Public Safety**, the **Department of Transportation**, the **Missouri Senate, Cass County, Jackson County Legislators, St. Louis County**, the **City of Cape Girardeau**, the **City of Kirksville,** the **City of Springfield, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Lincoln University, Missouri State University, Missouri Southern State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

Estimated costs for state and local governmental entities are unknown, but the initial and annual costs could be significant (millions of dollars) depending on decisions made at the state and local level to comply with required provisions in this proposal.

SAO Fiscal Note

From: Villmer, Rich <Rich.Villmer@dese.mo.gov>
Sent: Tuesday, January 24, 2012 1:26 PM
To: SAO Fiscal Note
Subject: Emailing: Initiative Petition 12-09
Attachments: Initiative Petition 12-09.xlsx

The message is ready to be sent with the following file or link attachments:

Initiative Petition 12-09

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

SAO 000001

Exhibit 2

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION
(573) 751-4143

Enter requested data in the following cells. This information will be used throughout the Fiscal Note Worksheet.

Agency:	DESE
Division:	Financial & Admin Svcs
Preparer:	Rich Villmer
Telephone:	751-7166
Date Prepared:	1-23-12
E-mail:	Rich.Villmer@dese.mo.gov
Fiscal Note:	Initiative Petition 12-09
Oversight Analyst:	
Approval Signature:	

Create additional state fund worksheets by clicking the "Create new State Fund" button and following prompts. General Revenue has already been provided. IF YOU NEED TO CREATE ADDITIONAL FEDERAL FUNDS, you MUST create them BEFORE creating your state funds. See button and instructions below!

Hyperlinks to Various Worksheet Tabs

Instructions | Summary of Fiscal Impact | Overview - Questions

General Revenue fund tab | Federal fund tab | Local | Worksheet Troubleshooting Form

Comment memo | Technical Memo | Statement of No Change

Note: A few select agencies require more than one Federal fund; this button can be used to create additional funds. If you do create additional federal funds, leave the default "Federal" fund worksheet blank. It will remain on the Fiscal Impact Summary sheet with zero impact and your custom-created funds will display with correct federal fund totals.

Version 3.0 11/27/01 Workbook notes and version history
RV - 12/7/2011

FISCAL ESTIMATE WORKSHEET **FISCAL NOTE:** Initiative Petition 12-09
OVERSIGHT DIVISION (573)751-4143 0
FAX (573)751-7681 Instructions

SUMMARY OF FISCAL IMPACT

Type of Fiscal Note Response: original

Agency:	DESE	Date:	1-23-12
Division:	Financial & Admin Svcs	Telephone:	751-7166
Preparer:	Rich Villmer	E-Mail Address:	Rich.Villmer@dese.mo.gov
Preparer's Signature:		No Impact on Agency:	x
Approval Signature:		No Local Fiscal Impact:	x
Oversight Analyst:	0		

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview" worksheets.
Create and complete separate worksheets for each state fund affected. Fiscal Note Worksheet

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2013	FY 2014	FY 2015
General Revenue	$0	$0	$0
Total Estimated Net Effect on All State Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Local Funds	$0	$0	$0
Total Estimated Net Effect on All Local Funds	**$0**	**$0**	**$0**

SAO Fiscal Note

From: Villmer, Rich <Rich.Villmer@dese.mo.gov>
Sent: Thursday, February 02, 2012 3:30 PM
To: SAO Fiscal Note; Jon Halwes
Subject: Emailing: Initiative Petition 12-09
Attachments: Initiative Petition 12-09.xlsm

Jon, thanks for your patience and understanding!

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION
(573) 751-4143

Enter requested data in the following cells. This information will be used throughout the Fiscal Note Worksheet.

Agency:	DESE
Division:	Admin & Financial Svcs
Preparer:	Rich Villmer
Telephone:	751-7166
Date Prepared:	2-2-12
E-mail:	Rich.Villmer@dese.mo.gov
Fiscal Note:	Initiative Petition 12-09
Approval Signature:	

Create additional state fund worksheets by clicking the "Create new State Fund" button and following prompts. General Revenue has already been provided. IF YOU NEED TO CREATE ADDITIONAL FEDERAL FUNDS, you MUST create them BEFORE creating your state funds. See button and instructions below!

Hyperlinks to Various Worksheet Tabs

Instructions	Summary of Fiscal Impact	Overview - Questions	
General Revenue fund tab	Federal fund tab	Local	Worksheet Troubleshooting Form
Comment memo	Technical Memo	Statement of No Change	

Note: A few select agencies require more than one Federal fund; this button can be used to create additional funds. If you do create additional federal funds, leave the default "Federal" fund worksheet blank. It will remain on the Fiscal Impact Summary sheet with zero impact and your custom-created funds will display with correct federal fund totals.

Version 3.0 11/27/01 Workbook notes and version history
RV - 12/1/2009

FISCAL ESTIMATE WORKSHEET
OVERSIGHT DIVISION (573)751-4143
FAX (573)751-7681

FISCAL NOTE: Initiative Petition 12-09
0
Instructions

SUMMARY OF FISCAL IMPACT

Type of Fiscal Note Response: original

Agency:	DESE	Date:	2-2-12
Division:	Admin & Financial Svcs	Telephone:	751-7166
Preparer:	Rich Villmer	E-Mail Address:	Rich.Villmer@dese.mo.gov
Preparer's Signature:		No Impact on Agency:	
Approval Signature:		No Local Fiscal Impact:	
Oversight Analyst:	0		

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview" worksheets.
Create and complete separate worksheets for each state fund affected. Fiscal Note Worksheet

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2013	FY 2014	FY 2015
General Revenue	(costs not expected to be significant)	(costs not expected to be significant)	(costs not expected to be significant)
Total Estimated Net Effect on All State Funds	(costs not expected to be significant)	(costs not expected to be significant)	(costs not expected to be significant)

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Local Funds	(unknown costs)	(unknown costs)	(unknown costs)
Total Estimated Net Effect on All Local Funds	(unknown costs)	(unknown costs)	(unknown costs)

Assumptions

DESE assumes the requirements of the initiative petition will result in the need to develop and document procedures. We do not expect significant costs.

In addition, local school districts will likely incur costs to develop and use standards; however, we defer to local school districts regarding the extent of such costs.

SAO Fiscal Note

From: Villmer, Rich <Rich.Villmer@dese.mo.gov>
Sent: Friday, February 03, 2012 10:03 AM
To: SAO Fiscal Note; Jon Halwes
Subject: Emailing: Initiative Petition 12-09
Attachments: Initiative Petition 12-09.xlsm

Yet another version of our fiscal note... Please allow this to replace all previous versions. Thanks Jon!

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION
(573) 751-4143

Enter requested data in the following cells. This information will be used throughout the Fiscal Note Worksheet.

Agency:	DESE
Division:	Admin & Financial Svcs
Preparer:	Rich Villmer
Telephone:	751-7166
Date Prepared:	2-2-12
E-mail:	Rich.Villmer@dese.mo.gov
Fiscal Note:	Initiative Petition 12-09
Approval Signature:	

Create additional state fund worksheets by clicking the "Create new State Fund" button and following prompts. General Revenue has already been provided. IF YOU NEED TO CREATE ADDITIONAL FEDERAL FUNDS, you MUST create them BEFORE creating your state funds. See button and instructions below!

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Version 3.0 11/27/01 Workbook notes and version history
RV - 12/1/2009

FISCAL ESTIMATE WORKSHEET **FISCAL NOTE:** Initiative Petition 12-09
OVERSIGHT DIVISION (573)751-4143 0
FAX (573)751-7681 Instructions

SUMMARY OF FISCAL IMPACT

Type of Fiscal Note Response: original

Agency:	DESE	Date:	2-2-12
Division:	Admin & Financial Svcs	Telephone:	751-7166
Preparer:	Rich Villmer	E-Mail Address:	Rich.Villmer@dese.mo.gov
Preparer's Signature:		No Impact on Agency:	
Approval Signature:		No Local Fiscal Impact:	
Oversight Analyst:	0		

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview" worksheets.
Create and complete separate worksheets for each state fund affected. Fiscal Note Worksheet

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2013	FY 2014	FY 2015
General Revenue	(unknown costs up to and exceeding $4.5 million)	(unknown costs up to and exceeding $4.5 million)	(unknown costs up to and exceeding $4.5 million)
Total Estimated Net Effect on All State Funds	**(unknown costs up to and exceeding $4.5 million)**	**(unknown costs up to and exceeding $4.5 million)**	**(unknown costs up to and exceeding $4.5 million)**

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Local Funds	(significant unknown costs)	(significant unknown costs)	(significant unknown costs)
Total Estimated Net Effect on All Local Funds	**(significant unknown costs)**	**(significant unknown costs)**	**(significant unknown costs)**

Assumptions

Sections 3(d) and (f)

These provisions carry eventual unknown costs that could be significant to the Department of Elementary and Secondary Education and to local county governments. While the language is declarative, no mention is made to enforcement of the provision. When the language indicates "No school district receiving any state funding or local tax revenue funding shall....", it implies enforcement of the provision. The Department cannot withhold funding without substantiated cause. In order for the Department to show substantiated cause, it must have a method to collect and review pertinent data that would support its actions. This would require additional staffing and/or data system development and maintenace (a number not yet determined) to collect and analyze contracts for each teacher in the state to verify duration of contracts on an annual basis.

Further, it would be necessary for the Department to report districts determined to be in violation to one hundred-fourteen counties and one city in Missouri. Most counties have multiple school districts and many school districts are in multiple counties. It would be encumbent upon the counties then to put mechanisms into place to suspend payments to the respective violators of this provision. The cost to the counties and one city to put this system into place would be significant statewide. Additionally, counties would also face the possibility of a significant increase in litigation exposure relative to the withholding of funds.

While it is impossible to determine the exact amount of cost, the potential cost to the state, counties and one city driven by the need to assure that funds are not distributed in violation of this section would be in the millions of dollars.

Section 3(g)

If it is determined that the state shall develop and implement evaluation technical assistance, then costs could be similar to those incurred by the State of Florida's public school system model totalling $4.5 million. If state assessments are required to provide student performance data for all teachers, additional state costs could be incurred.

The exact cost of this provision is also difficult to calculate. This provision calls for each district to develop its own local performance standards for teachers "to retain, remove, promote, demote and set compensation". In effect this would establish 520 accountability systems and thereby set aside the Missouri Accountability Standards established by the State Board of Education. Local districts would incur significant cost in the aggregate for establishing customized accountability systems which counter the concept of statewide educational goals. Such systems would have difficulty meeting validity tests which could increase the likelihood of litigation cost.

For the Department to establish assessments that could be used statewide, a significant increase in test development and ongoing administrative expenses would be required. Funds have not been available to allow for expanded assessment capabilities that would allow a move through collection of student performance data. The requirement that all staff be assessed based upon student performance would demand that assessment instruments be in place to measure student success in all cases where "teachers" are employed. While the Department has not done research to determine the cost and scope of assessments that would be required to address this provision, it can be documented that the annual cost of assessments for the limited testing now done is in excess of $10 million. This number would grow exponentially if the Department was to assure all content areas, grade levels, and instructional support areas were assured valid assessments of student performance.

Assessment Plan (Begins in 2012-2013 school year)

Classes of 2013 2014 2015 (4)	English II
	Algebra I
	Biology
	Government
Class of 2016 (8)	**English I**
	English II
	English EOHS
	Algebra I
	Mathematics EOHS
	Biology
	Government
	American History
Class of 2017 (9)	English I
	English II
	English EOHS
	Algebra I
	Mathematics EOHS
	Additional Mathematics
	Biology
	Government
	American History
Class of 2018 (11)	English I
	English II
	English EOHS
	Algebra I
	Mathematics EOHS
	Additional Mathematics
	Biology
	Additional Science
	Additional Science
	Government
	American History

Cohort Grid

	SY 2012-2013	SY 2013-2014	SY 2014-2015	SY 2015-2016	SY 2016-2017	SY 2017-2018	SY 2018-2019
GR 12	2013	2014	2015	2016	2017	2018	2019
GR 11	2014	2015	2016	2017	2018	2019	2020
GR 10	2015	2016	2017	2018	2019	2020	2021
GR 09	2016	2017	2018	2019	2020	2021	2022

U.S. Secretary of Education Duncan Announces Winners of Competition to Improve Student Assessments

Two winning applications composed of 44 States and D.C. Win Grants to Fund Assessments Based on Common Core Standards

SEPTEMBER 2, 2010

Contact: Press Office, (202) 401-1576, press@ed.gov (mailto:press@ed.gov)

In an effort to provide ongoing feedback to teachers during the course of the school year, measure annual student growth, and move beyond narrowly-focused bubble tests, the U.S. Department of Education has awarded two groups of states grants to develop a new generation of tests. The new tests will be aligned to the higher standards that were recently developed by governors and chief state school officers and have been adopted by 36 states. The tests will assess students' knowledge of mathematics and English language arts from third grade through high school.

The grant requests, totaling approximately $330 million, are part of the Race to the Top competition and will be awarded to the Partnership for Assessment of Readiness for College and Careers (PARCC) and the SMARTER Balanced Assessment Consortium (SBAC) in the amounts of approximately $170 and $160 million respectively.

Related Resources

- Letter to governors (http://www2.ed.gov/programs/racetothetop-assessment/governors-letter.html)
- Applications and Scores (http://www2.ed.gov/programs/racetothetop-assessment/applicant.html)
- Secretary's remarks on assessement at Achieve meeting (http://www.ed.gov/news/speeches/beyond-bubble-tests-next-generation-assessments-secretary-arne-duncans-remarks-state-l)
- Press call (http://www.ed.gov/news/av/audio/2010/09/09022010.mp3)
- Press call transcript (http://www.ed.gov/news/av/audio/2010/09/09022010.doc)

"As I travel around the country the number one complaint I hear from teachers is that state bubble tests pressure teachers to teach to a test that doesn't measure what really matters," said Duncan. "Both of these winning applicants are planning to develop assessments that will move us far beyond this and measure real student knowledge and skills."

The Partnership for Assessment of Readiness for College and Careers is a coalition of 26 states including AL, AR, AZ, CA, CO, DC, DE, FL, GA, IL, IN, KY, LA, MA, MD, MS, ND, NH, NJ, NY, OH, OK, PA, RI, SC and TN. The SMARTER Balanced Assessment Consortium is a coalition of 31 states including AL, CO, CT, DE, GA, HI, IA, ID, KS, KY, ME, MI, MO, MT, NC, ND, NH, NJ, NM, NV, OH, OK, OR, PA, SC, SD, UT, VT, WA, WI, and WV. The assessments will be ready for use by the 2014-15 school year.

"Given that these assessment proposals, designed and developed by the states, were voluntary, it was impressive to see a vast majority of states choose to participate," said Duncan.

The PARCC coalition will test students' ability to read complex text, complete research projects, excel at classroom speaking and listening assignments, and work with digital media. PARCC will also replace the one end-of-year high stakes accountability test with a series of assessments throughout the year that will be averaged into one score for accountability purposes, reducing the weight given to a single test administered on a single day, and providing valuable information to students and teachers throughout the year.

The SMARTER coalition will test students using computer adaptive technology that will ask students tailored questions based on their previous answers. SMARTER will continue to use one test at the end of the year for accountability purposes, but will create a series of interim tests used to inform students, parents, and teachers about whether students are on track.

For both consortia, these periodic assessments could replace already existing tests, such as interim assessments that are in common use in many classrooms today. Moreover, both consortia are designing their assessment systems with the substantial involvement of experts and teachers of English learners and students with disabilities to ensure that these students are appropriately assessed.

The parameters of the competition were informed by 10 public and expert input meetings that the Department hosted across the country last winter. Forty-two invited assessment experts joined nearly 1,000 members of the public and officials from 37 states plus Washington D.C. for over 50 hours of public and expert input on critical questions about assessment and assessment design.

The winning applicants were selected by a panel of peer reviewers. Due to the highly technical nature of the Race to the Top Assessment Competition, the Department sent invitations to two groups of individuals to serve as peer reviewers: 1) experts who served as panelists for the Race to the Top Assessment public meetings (these were nominated by the director of the National Academies of Sciences' Board on Testing and Assessment,

by the U. S. Department of Education's National Technical Advisory Council chair, and/or by Department experts); and 2) persons experienced as peer reviewers in the Title I review of State assessment systems (all recruited on the basis of assessment expertise). The Department specifically solicited individuals with experience and expertise in K-12 assessment design, development, implementation, and use for instructional improvement, and those with expertise in complex organizational and project leadership and management.

Tags:

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Smarter Balanced
Assessment Consortium

Frequently Asked Questions

1. What is the Smarter Balanced Assessment Consortium?

Smarter Balanced is a state-led consortium working collaboratively to develop next-generation assessments aligned to the **Common Core State Standards (CCSS)** that accurately measure student progress toward college and career readiness. The Consortium involves educators, researchers, policymakers, and community groups in a transparent and consensus-driven process to help all students thrive in a knowledge-driven global economy. The Consortium's projects are funded through a four-year, $175 million grant from the U.S. Department of Education, comprising 99 percent of activity resources, with the remaining support provided through generous contributions of charitable foundations.

2. What are the Race to the Top Assessment grants?

In 2010, the U.S. Department of Education awarded $330 million to two groups of states—the **Partnership for Assessment of Readiness for College and Careers (PARCC)** and the Smarter Balanced Assessment Consortium—to develop a valid, reliable, and fair system of next-generation assessments.

The new tests will assess students' knowledge of mathematics and English language arts/literacy from third grade through high school. They will be aligned to the **Common Core State Standards**, developed by governors and chief state school officers and adopted by more than 40 states.

These assessments will provide educators, parents, and students with the information they need to continuously improve teaching and learning and help ensure that students graduate high school college- and career-ready. The assessments will serve all students, including English language learners and students with disabilities.

3. When will the new assessments be in place?

Smarter Balanced is committed to delivering a fully functional assessment system that will be ready for implementation in the 2014-15 school year. In addition, Smarter Balanced is supporting member states as they implement the **Common Core State Standards**. Tools and resources for educators will be posted online in 2012 and incorporated into the digital library as part of the assessment system.

4. How will Smarter Balanced assessments contribute to student success?

All students deserve an education that prepares them for their next step in life—whether that's going on to postsecondary education or starting a career. The Smarter Balanced assessment system will give parents and students accurate information about whether students are on track to graduate high school ready for college and the workplace. It will provide teachers with resources to tailor instruction to student needs through a digital library of instructional best practices. Importantly, educators will be able to easily

compare student achievement between schools, districts, and states to ensure that students are making progress.

For more information, visit the **Parents & Students** page.

5. How do states join Smarter Balanced?

Smarter Balanced is a state-led consortium, and membership is open to any state. To join, states agree to abide by a memorandum of understanding (MOU) signed by the State's Commissioner or Superintendent of Education, the Governor, and the President of the State School Board (if applicable). The MOU defines the Consortium's governance and decision-making processes, describes how states may join or exit the Consortium, and specifies other membership requirements. In addition, all Smarter Balanced member states must have adopted the **Common Core State Standards** by December 31, 2011. To continue as a member after the beginning of the 2014-15 school year, a state must agree to use the Consortium's tests as its federal accountability assessments.

6. What does it cost for a state to participate in the Smarter Balanced Assessment Consortium?

The cost of developing the Smarter Balanced assessment system is funded by the U.S. Department of Education's **Race to the Top Assessment Program**. After development is complete, most states can expect to spend less on Smarter Balanced assessments than they do on current assessments. The projected per pupil cost for the summative assessment is $19.81, while the interim assessments are expected to cost $7.50—for a total of $27.31 per student.

Among the 31 states that provided estimates of their current spending on assessments as part of the Smarter Balanced grant proposal, the average per student cost was $31.00. Smarter Balanced will make updated cost estimates available as the development of the assessment system progresses.

7. How is the Smarter Balanced Assessment Consortium different from the Partnership for the Assessment of Readiness for College and Careers (PARCC)?

Both Smarter Balanced and PARCC are developing assessment systems aligned to the **Common Core State Standards (CCSS)** in English language arts/literacy and mathematics with the goal of preparing K-12 students for college and career. However, there are key differences between the two consortia. For example, Smarter Balanced assessments will use **computer adaptive technology**, while PARCC will use computerized assessments that are not adaptive. For a summary of both design approaches, see **Coming Together to Raise Achievement: New Assessments for the Common Core State Standards**, a white paper developed by Educational Testing Service.

8. What will the Smarter Balanced Assessment Consortium provide?

By 2014, the Smarter Balanced Assessment Consortium will develop a fair and reliable system of next-generation assessments for English language arts/literacy and mathematics for grades 3-8 and 11 aligned to Common Core State Standards. These assessments will be administered online, allowing for timely results that will provide information to teachers to help differentiate instruction. The assessment system will include:

- A computer adaptive summative assessment administered during the last 12 weeks of the school year. This assessment can be used to describe student achievement and growth of student learning as part of program evaluation and school, district, and state accountability systems.
- Optional computer adaptive interim assessments administered at locally determined intervals. These assessments provide information about student progress throughout the year.

Formative tools and resources that help teachers differentiate instruction and meet the unique needs of each student.

An online tailored reporting system that provides access information about student progress toward college and career readiness.

To learn more, download a one-page overview of the Consortium.

9. How is Smarter Balanced different from current assessments?

Smarter Balanced is guided by the belief that a balanced, high-quality assessment system—including formative, interim, and summative components—can improve teaching and learning by providing information and tools for teachers and schools to help students succeed. Timely and meaningful assessment information can offer specific information about areas of performance so that teachers can follow up with targeted instruction, students can better target their own efforts, and administrators and policymakers can more fully understand what students know and can do, in order to guide curriculum and professional development decisions.

Smarter Balanced assessments make use of computer adaptive technology, which is more precise and efficient than fixed-form testing. Teachers, principals, and parents can receive results from computerized assessments in weeks, not months. Faster results mean that teachers can use the information from optional interim assessments throughout the school year to differentiate instruction and better meet the unique needs of their students.

Smarter Balanced assessments will go beyond multiple-choice questions and include short constructed response, extended constructed response, and performance tasks that allow students to complete an in-depth project that demonstrate analytical skills and real-world problem solving.

For more information, download the Smarter Balanced **Theory of Action.**

10. Do the Smarter Balanced assessments support English language learners, students with disabilities, and other students with special needs?

The Smarter Balanced assessment system will provide accurate measures of achievement and growth for students with disabilities and English language learners. The assessments will address visual, auditory, and physical access barriers—allowing virtually all students to demonstrate what they know and can do.

Our work is guided by the Smarter Balanced Technical Advisory Committee, as well as advisory panels for English language learners and students with disabilities. For more information, download the Accessibility and Accommodations factsheet and visit the Support for Under-Represented Students page

11. Will students be able to retake the Smarter Balanced summative assessment?

Smarter Balanced will offer a retake opportunity on the CAT portion of the summative assessment for students who feel their scores are inaccurate or that believe the test was administered under non-standard circumstances.

12. Will Smarter Balanced provide end-of-course assessments?

Smarter Balanced is not developing end-of-course assessments. The 11th grade summative assessment will provide evidence that students are college- and career-ready. However, Smarter

Balanced will develop software to allow states to create end-of-course assessments using the interim item bank.

13. Will results from Smarter Balanced assessments be comparable to assessments from other consortia?

Smarter Balanced is collaborating with the **Partnership for Assessment of Readiness for College and Careers (PARCC)** to ensure that there is comparability across the two assessments at the proficiency cut score for every grade. Both consortia will jointly engage with technical and policy advisors to study cross-consortia comparability.

14. A coalition of states is developing next-generation science standards. Will science be incorporated into the Consortium's assessments?

Smarter Balanced will not include science assessments at the time of implementation in the 2014-15 school year. However, it is likely that the online test delivery options selected by states (or the Consortium) will support the delivery of online test science assessments in the future—particularly in cases where the science assessments are comprised of selected-response items. Smarter Balanced will continue to monitor the development and adoption of science standards.

The Next Generation Science Standards are being developed by a partnership that includes The National Research Council, the National Science Teachers Association, the American Association for the Advancement of Science, and Achieve. For more information, visit: **http://www.nextgenscience.org**.

15. To what extent will the assessments measure 21st-century skills?

The Smarter Balanced assessment system will measure the full depth and breadth of the **Common Core State Standards** in ELA/literacy and mathematics. The authors of the Common Core explicitly focused on the cognitive skills and knowledge that students need to be ready to succeed in entry-level, credit-bearing, academic college courses and in workforce training programs. Critical-thinking, problem-solving, and communication skills are a major focus in the standards. Through innovative items and performance tasks, Smarter Balanced will measure these important skills.

However, the Common Core authors also note that the standards are not meant to encompass everything a student should learn, or describe all of the skills that students need in the 21st century. Indeed, academic readiness—as defined by the Common Core—is only part of a more comprehensive set of knowledge and skills that contribute to college and career readiness, such as work habits, persistence, and postsecondary planning.

16. What happens after Smarter Balanced assessments are implemented in the 2014-15 school year?

Smarter Balanced has created a Sustainability Task Force that will develop recommendations about how states will procure, administer, and maintain the Smarter Balanced assessment system after the federal grant ends in 2014. The 13-member task force will include the following representatives:

- State chief who will serve as co-facilitator with the Smarter Balanced chief operating officer (1)
- State chiefs to serve as task force members at large (2)
- Governors/aides (2)
- State leads (2)
- State procurement experts (2)
- State central information officers (2)
- Higher education representatives (2)

While the exact structure of Smarter Balanced after 2014 has not yet been determined, member states will be actively involved in determining the future direction of the Consortium.

17. What is a performance task?

Performance tasks challenge students to apply their knowledge and skills to respond to real-world problems. They can best be described as collections of questions and activities that are coherently connected to a single theme or scenario. These activities are meant to measure capacities such as depth of understanding, research skills, and complex analysis, which cannot be adequately assessed with selected- or constructed-response items.

Performance tasks in reading, writing, and mathematics will be part of the Smarter Balanced summative, year-end assessment. Performance tasks can also be administered as part of the optional interim assessments throughout the year. The performance tasks will be delivered by computer (but will not be computer adaptive) and will take one to two class periods to complete.

18. Are sample Smarter Balanced assessment questions available?

Smarter Balanced recently released assessment sample items and performance tasks that illustrate the variety of innovative item types students will encounter on the Smarter Balanced assessments. Developed in collaboration with educators and content experts, the sample items and tasks are meant to help teachers, administrators, and policymakers better understand the Common Core State Standards and prepare for the implementation of the Smarter Balanced assessments.

19. Does a shared assessment system require a shared or common curriculum?

No. We believe that curriculum decisions are best made by educators at the local and state levels. States participating in the Smarter Balanced Assessment Consortium will have access to professional development materials and instructional resources for teachers through a digital library. These tools are optional and can be used, as needed, to complement state curriculum supports to districts and teachers.

20. What are the Common Core State Standards (CCSS) and how are they related to Smarter Balanced?

Developed voluntarily and cooperatively by 48 states, two territories, and the District of Columbia, the **Common Core State Standards** offer schools, teachers, students and parents clear, understandable, and consistent standards in English language arts and mathematics. The CCSS defines the knowledge and skills students should take away from their K-12 schooling to be successfully prepared for postsecondary and career opportunities. More than 40 states have adopted the Common Core State Standards.

Teachers and parents need information about whether students are meeting the expectations set by the CCSS. Smarter Balanced is developing an assessment system that will measure mastery of the Common Core State Standards and provide timely information about student achievement and progress toward college and career readiness. Educators will also have access to a robust library of formative assessment resources and tools that they can use in the classroom to address the individual needs of their students.

21. How do the Common Core State Standards (CCSS) define college- and career-readiness?

The writers of the CCSS, who included college and university faculty, began by defining the knowledge and skills in mathematics and ELA/literacy that students need to be ready to succeed in entry-level credit-bearing coursework and the high-skill workforce. To do this, the standards writers consulted existing college readiness benchmarks, research on student academic preparation, and surveys of business leaders, as well as content standards for top-performing states and countries. The standards-writers sought to create standards that are:

- Aligned with college and work expectations;
- Include rigorous content and application of knowledge through high-order skills;
- Build upon strengths and lessons of current state standards;
- Informed by top-performing countries, so that all students are prepared to succeed in our global economy and society; and,
- Evidence and/or research-based.

The College and Career-ready Standards were vetted by faculty around the country, including panels convened by the American Council on Education in collaboration with leading scholarly societies. Once the College- and Career-ready Standards were agreed upon, standards writers then created the grade level standards, "back-mapping" them to the college- and career-ready benchmarks. A recent survey of 1,800 faculty in an array of disciplines at a diverse set of institutions found substantial agreement that the CCSS define the knowledge and skills that students need to be ready for entry-level course work.

22. What is Smarter Balanced doing to support states as they implement the Common Core State Standards?

Smarter Balanced is committed to assisting states as they implement the Common Core State Standards. These efforts include:

- Funded membership for Governing States in the Council of Chief State School Officers' (CCSSO) Implementing the Common Core Standards (ICCS) state collaborative. Participation in this collaborative provided an opportunity for states to develop plans to assist students and teachers in implementing the Common Core State Standards.
- Participating in collaborative efforts, such as the Math Common Core Coalition, whose members also include: National Council of Teachers of Mathematics (NCTM), the National Council of Supervisors of Mathematics (NCSM), the Association of Mathematics Teacher Educators (AMTE), the Association of State Supervisors of Mathematics (ASSM), the Council of Chief State School Officers (CCSSO), the National Governors Association (NGA), and the Partnership for the Assessment of Readiness for College and Careers (PARCC).
- Developing a digital library of formative assessment practices and professional development resources aligned to the CCSS. The library will include examples of instructional best practices at each grade level, strategies for cross-classroom collaboration, and professional development resources related to the assessment system, such as scoring rubrics for performance tasks.

23. How is the higher education community involved in Smarter Balanced?

Collaboration with higher education is critical to achieving the goal of better preparing students to enter college and the workforce. Representatives from higher education are involved in key design decisions —with the goal that colleges and universities across Smarter Balanced member states will accept the assessment as evidence that high school students are ready for entry-level, credit-bearing coursework.

Each member state has appointed a **higher education lead** to provide input in the development of the assessment system and coordinate outreach to higher education institutions. In addition, two higher

education leaders hold seats on the **Executive Committee** and higher education representatives serve on Consortium **work groups**.

24. Is the Smarter Balanced summative assessment designed for use in college admissions?

25. How is Smarter Balanced defining college- and career-readiness?

Smarter Balanced is developing assessments aligned to the full depth and breadth of the Common Core State Standards (CCSS). Through its member states, and in consultation with the lead standards writers and other national education experts, Smarter Balanced is translating the CCSS into assessment targets, test blueprints, and, ultimately, assessment items and performance tasks. The Consortium also will establish performance benchmarks that define the level of content and skill mastery that marks students as college- and career-ready. These performance benchmarks will be determined through a deliberative and evidence-based standard-setting process, which will include input from K-12 educators and college and university faculty. Preliminary performance standards will be established in 2014 after student data have been collected through pilot and field testing. Following the Field Test in spring 2014, the Consortium will conduct standard setting for the summative assessments in grades 3–8 and grade 11 in ELA/literacy and mathematics. These performance standards will be validated in July/August 2015 using spring 2015 operational data

26. How will the performance standard be set for defining college- and career-readiness?

Higher education leads will work with college and university faculty to play a very active role in this process, with higher education representatives playing a primary role in establishing college- and career-ready standards for the 11th grade assessment. In addition to expert judgment from K-12 teachers and higher education faculty, Smarter Balanced will draw upon multiple sources of empirical data to guide the setting of performance standards, including: international and national benchmarks such as PISA, TIMSS, NAEP, SAT and ACT; and information about student performance in high school and subsequent postsecondary success from state-level longitudinal data systems.

27. How will scores on the Smarter Balanced assessment support differentiating student performance for the purpose of placement?

A primary goal of the Smarter Balanced system is the commitment by higher education institutions to recognize an agreed-upon uniform performance level on the 11th grade summative assessment as evidence that students are ready for entry-level, credit-bearing courses in English and mathematics and should be exempted from remedial or developmental coursework. If students score at the college-ready level and wish to take more advanced courses, additional information would be needed to make specific course placement decisions. Likewise, if students score below the college-ready level, a placement test or diagnostic assessment may be needed to determine their developmental needs.

28. How will Smarter Balanced validate its college- and career-readiness benchmark?

A substantial research program has been designed and is being refined to validate and make adjustments to the college- and career-ready standard after full-scale administration begins in 2014-15. Because of the rigorous standard-setting process planned, it is anticipated that the initial college- and career-ready benchmark will be predictive of student performance in the first year of college. Nonetheless, it will be important to validate the standard, and make any necessary adjustments, once postsecondary performance data are available for students who have taken the Smarter Balanced assessments.

29. How is Smarter Balanced developing achievement level descriptors (ALDs)?

Achievement level descriptors (ALDs) are text statements that articulate the knowledge, skills, and abilities represented at different categories of performance on the Smarter Balanced assessments, including the college- and career-ready category for the high school assessment. They describe how students are progressing toward mastery of the Common Core State Standards and provide clear explanations of student performance for policymakers, educators, and parents.

Smarter Balanced has developed an inclusive, collaborative process for drafting initial ALDs in collaboration with K-12 teachers and higher education faculty nominated by member states, as well as content experts. Draft ALDs will be available for feedback begining late November 2012. Preliminary ALDs are expected to be finalized by March 2013 by Governing States. For more information, click here to download an overview of the ALD development process.

30. How are teachers involved in creating the Smarter Balanced assessment system?

Smarter Balanced is committed to engaging teachers in the design of an assessment system that provides resources and information to improve teaching and learning. Teachers are helping write and review assessment items and performance tasks for the Pilot Test of the assessment system in early 2013. Teachers will also contribute to the development of items for the Field Test in early 2014. More information about item development is available in **a series of online trainings** for item writers and reviewers.

In addition, Smarter Balanced will recruit teams of teachers from each state to evaluate formative assessment tools and resources and contribute to professional learning resources available through the assessment system. Finally, teachers will score parts of the assessments, including extended response and performance tasks.

31. How can schools participate in the Pilot Test of the assessment system?

Smarter Balanced will conduct a Pilot Test of the assessment system beginning in February 2013. The Pilot Test will include items and performance tasks currently under development and will provide information about how these items and tasks perform in a real-world setting. Participation in the Pilot Test will be open to all schools in the Consortium and will include students from grades 3-11. Additional information about how to participate in the Pilot Test will be made available to states in November 2012.

32. How will teachers be selected to participate in the State Networks of Educators?

Smarter Balanced is committed to involving teachers in the development and vetting of formative assessment practices and professional learning opportunities. Beginning in the 2012-13 school year, Smarter Balanced will convene State Leadership Teams charged with recruiting an average of 100 educators per state to form State Networks of Educators. These educator networks will provide feedback on the development of formative assessment resources and professional learning tools. They will also serve as ambassadors to help states engage stakeholders with resources and trainings to understand and interpret assessment results. It is expected that states will work with existing networks for professional development, and will invite the regional representatives of professional organizations to recommend teachers to participate in the sessions. Additional information will be available in early 2013. For more information about the development of formative assessment resources, download the **Formative Assessment Master Work Plan.**

33. How does computer adaptive testing (CAT) work?

The Smarter Balanced assessment system capitalizes on the precision and efficiency of **computer adaptive testing (CAT)** for both the mandatory summative assessment and the optional interim assessments. This approach represents a significant improvement over traditional paper-and-pencil assessments used in many states today. Computer adaptive testing adjusts to a student's ability by basing the difficulty of future questions on previous answers, providing more accurate measurement of student achievement, particularly for high and low-performing students. For more information, download a CAT **factsheet** and **webinar**.

34. What if my school or district does not have the infrastructure to support computer adaptive testing?

Smarter Balanced is committed to helping states transition successfully to next-generation assessments. Smarter Balanced and the Partnership for Assessment of Readiness for College and Careers (PARCC) have collaborated on a Technology Readiness Tool to help states identify infrastructure gaps and plan for future needs.

The Technology Readiness Tool allows schools to capture and report key readiness indicators, including: number and type of computers; local network and bandwidth infrastructure; and local staff resources and other information needed to evaluate overall technology readiness for the coming transition to digital delivery of assessments.

The first data collection window served as a baseline inventory of technology and supporting infrastructure that will inform policy and improvements of the tool. Subsequent data collection is scheduled for fall 2012, spring 2013, fall 2013, spring 2014, and summer 2014. For more information about technology requirements, visit the Technology page.

35. What are the technology requirements to administer the Smarter Balanced assessments?

Smarter Balanced is working with member states to develop comprehensive minimum technology requirements detailing bandwidth, hardware, and operating system specifications for devices eligible to administer the assessments beginning in the 2014-15 school year. These guidelines will be informed by the results of the Technology Readiness Tool and are expected to be released in late 2012.

To help schools and districts make instructional technology purchases over the next two years, Smarter Balanced has developed new hardware purchasing guidelines. These hardware and operating system guidelines are meant to inform current and future purchasing decisions to ensure that new devices are compatible with the Smarter Balanced assessment system in 2014-15.

Exhibit 6

October 2012 Missouri Technology Readiness Data Summary

Missouri		
% Schools indicating Complete	97.79%	The first % is schools that have indicated complete compared to the total number of schools entered into the TRT. the second % represents the number of schools that have at least one device input in the TRT.
% Schools With 1 or More Devices	87.94%	

		Count	%	SBAC	PARCC	SBAC & PARCC	
							Data in these columns represent the aggregate of TRT data by consortia membership.
	TOTAL COUNTS	216,275		2,444,442	3,761,440	5,972,945	Total count of devices entered into the TRT for the state.
Not Known	Left Blank	154	0.07%	0.87%	0.22%	0.49%	This section summarizes state counts and percentage of device entries where device OS fields were either left blank or marked as "Other/Unknown OS" in the device entry for schools that have at least 1 devices entered into the TRT.
	Unknown OS	24	0.01%	0.24%	0.86%	0.64%	
	Subtotal	**178**	**0.08%**	**1.11%**	**1.08%**	**1.13%**	
MS Windows	XP (service pack 2)	1,403	0.65%	0.24%	0.17%	0.20%	This section summarizes counts and percentages of devices where the operating system is a Windows product. The percentage is based on percent of total counts The oldest supported Windows operating system is Windows XP with the division of service pack 2 and service pack 3 added after the 7/15 snapshot The newest are Windows 8 and Windows RT which became available for selection after the 7/15 snapshot.
	XP (service pack 3)	99,267	45.90%	50.87%	57.19%	54.98%	
	Vista	1,124	0.52%	0.75%	0.49%	0.60%	
	Win 7	81,008	37.46%	27.10%	28.37%	27.44%	
	Win 8	53	0.02%	0.01%	0.04%	0.03%	
	Win RT	19	0.01%	0.00%	0.00%	0.00%	
	Win Other	712	0.33%	0.93%	0.86%	0.92%	
	Subtotal	**183,586**	**84.89%**	**79.91%**	**87.11%**	**84.17%**	
Apple	**Mac**						This section summarizes counts and percentages of device entries where the operating system is an Apple product. This list includes operating systems for computers, mobile devices and tablets.
	10.1-.5	7,418	3.43%	4.67%	3.01%	3.79%	
	10.6-.7	22,154	10.24%	9.58%	5.26%	7.19%	
	10.8	15	0.01%	0.04%	0.32%	0.22%	
	Mac other	245	0.11%	0.14%	0.07%	0.10%	
	Subtotal	**29,832**	**13.79%**	**14.43%**	**8.65%**	**11.29%**	
	iOS						
	iOS 4	13	0.01%	0.26%	0.20%	0.20%	
	iOS 5	2,245	1.04%	2.91%	2.14%	2.33%	
	iOS 6	0	0.00%	0.32%	0.13%	0.15%	
	iOS other	1	0.00%	0.09%	0.06%	0.08%	
	Subtotal	**2,259**	**1.04%**	**3.58%**	**2.53%**	**2.75%**	
Linux	Ubuntu	0	0.00%	0.28%	0.26%	0.28%	This section summarizes counts and percentages of devices where the operating system is a Linux product. The Linux operating systems listed are the only Linux systems available for selection from the TRT.
	Fedora	0	0.00%	0.01%	0.00%	0.00%	
	Suse	0	0.00%	0.01%	0.00%	0.01%	
	Other	178	0.08%	0.07%	0.04%	0.05%	
	Subtotal	**178**	**0.08%**	**0.36%**	**0.31%**	**0.34%**	

Data Current as of October 6, 2012

October 2012 Missouri Technology Readiness Data Summary

Missouri		
% Schools indicating Complete	97.79%	The first % is schools that have indicated complete compared to the total number of schools entered into the TRT. the second % represents the number of schools that have at least one device input in the TRT.
% Schools With 1 or More Devices	87.94%	

		Count	%	SBAC	PARCC	SBAC & PARCC	
							Data in these columns represent the aggregate of TRT data by consortia membership.
Google	**Android**						
	3.x Honeycomb	0	0.00%	0.10%	0.03%	0.04%	This section summarizes counts and the percentages of device entries where the operating system is an Google product. This list includes operating systems for both Android and Chrome available for selection in the TRT.
	4.x Ice Cream Sandwich	131	0.06%	0.01%	0.05%	0.04%	
	Android Other	0	0.00%	0.03%	0.02%	0.02%	
	Subtotal	**131**	**0.06%**	**0.14%**	**0.09%**	**0.10%**	
	Chrome						
	Google Chrome OS	111	0.05%	0.47%	0.22%	0.23%	
	Subtotal	**111**	**0.05%**	**0.47%**	**0.22%**	**0.23%**	
Screen Resolution	Left Blank	7,088	3.28%	10.07%	24.74%	19.44%	This section summarizes counts and percentages of screen resolutions entered into the TRT. All screen resolutions greater than 1024 x 768 are summed together. The total count of screen resolution selections is equal to the total count of devices entered into the TRT and the sum of percentages equals 100%.
	< 800 x 600	273	0.13%	0.71%	0.26%	0.44%	
	800 x 600	9,065	4.19%	3.98%	2.11%	2.90%	
	1024 x 576	84	0.04%	0.08%	0.06%	0.07%	
	1024 x 600	1,397	0.65%	0.26%	0.16%	0.21%	
	1024 x 768	88,081	40.73%	45.81%	45.62%	45.07%	
	> 1024 x 768	110,287	50.99%	39.08%	27.05%	31.87%	
	Subtotal	**216,275**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	
Memory	Left Blank	6,580	3.04%	3.80%	20.67%	14.33%	This section summarizes counts and percentages of memory ranges entered into the TRT. All memory ranges greater than 4GB are summed together. The total count of memory selections equals the total count of devices entered into the TRT and the sum of percentages equals 100%.
	< 512 MB	3,586	1.66%	4.41%	2.46%	3.15%	
	512 MB	10,311	4.77%	10.69%	9.70%	9.80%	
	1 GB - 4GB	191,895	88.73%	79.16%	65.55%	70.94%	
	> 4 GB	3,903	1.80%	1.94%	1.62%	1.78%	
	Subtotal	**216,275**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	
Display Size	Left Blank	6,397	2.96%	10.57%	27.67%	21.49%	This section summarizes counts and percentages of display size entered into the TRT. All display sizes greater than 12.9 inches are summed together. The total count of display size selections equals the total number of devices entered into the TRT. The sum of percentages equals 100%
	< 7 inches	26	0.01%	0.27%	0.10%	0.17%	
	7-9.4 in.	3,120	1.44%	1.28%	0.75%	0.92%	
	9.5-12.9 in.	31,176	14.41%	14.03%	7.37%	9.82%	
	> 12.9 in.	175,556	81.17%	73.85%	64.10%	67.59%	
	Subtotal	**216,275**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	

Data Current as of October 6, 2012

October 2012 Missouri Technology Readiness Data Summary

Missouri		
	% Schools indicating Complete	97.79%
	% Schools With 1 or More Devices	87.94%

The first % is schools that have indicated complete compared to the total number of schools entered into the TRT. the second % represents the number of schools that have at least one device input in the TRT.

Data in these columns represent the aggregate of TRT data by consortia membership.

Form Factor (Device Type)	Count	%	SBAC	PARCC	SBAC & PARCC
Traditional					
Desktop	108,161	50.01%	52.77%	48.01%	49.77%
< 7 inches	0	0.00%	0.01%	0.00%	0.00%
7-9.4 in.	51	0.05%	0.04%	0.02%	0.03%
9.5-12.9 in.	371	0.34%	0.34%	0.23%	0.27%
> 12.9 in.	107,538	99.42%	96.40%	95.26%	95.58%
Laptop	63,047	29.15%	23.65%	16.72%	19.15%
< 7 inches	0	0.00%	0.02%	0.02%	0.02%
7-9.4 in.	256	0.41%	0.82%	0.62%	0.47%
9.5-12.9 in.	15,275	24.23%	18.76%	11.15%	14.71%
> 12.9 in.	47,498	75.34%	77.89%	83.90%	81.16%
Netbook	16,027	7.41%	7.04%	3.83%	5.22%
< 7 inches	25	0.16%	0.23%	0.25%	0.24%
7-9.4 in.	2,791	17.41%	6.64%	7.97%	7.18%
9.5-12.9 in.	13,114	81.82%	88.31%	82.97%	85.88%
> 12.9 in.	97	0.61%	3.53%	5.00%	4.23%
Subtotal	**187,235**	**86.57%**	**83.46%**	**68.56%**	**74.14%**
Other					
Tablet	2,386	1.10%	3.57%	2.27%	2.56%
< 7 inches	1	0.04%	2.33%	0.56%	1.63%
7-9.4 in.	22	0.92%	16.45%	11.39%	15.41%
9.5-12.9 in.	2,207	92.50%	76.32%	83.25%	77.50%
> 12.9 in.	133	5.57%	0.73%	2.73%	1.94%
Thin Client/VDI	4,703	2.17%	1.84%	1.90%	1.90%
< 7 inches	0	0.00%	0.08%	0.00%	0.03%
7-9.4 in.	0	0.00%	0.00%	0.00%	0.00%
9.5-12.9 in.	0	0.00%	0.89%	0.76%	0.84%
> 12.9 in.	4,703	100.00%	89.59%	91.65%	90.61%
Left Blank	21,728	10.05%	10.49%	25.75%	20.19%
Other	223	0.10%	0.64%	1.52%	1.22%
Subtotal	**29,040**	**13.43%**	**16.54%**	**31.44%**	**25.86%**

This section summarizes counts and percentages describing devices types. Each device type includes disaggregated display size counts and percentages for each device type available in the TRT. Display sizes left blank are not included at the device level so the count by display size may not equal the total for each device type. The percentage value for device type is a percentage based on total devices and the percentages for display sizes represents a percentage for each device type.

For example, in Missouri there were reported 108,161 traditional computer devices with 99.42% and of these have a display size of 12.9 or greater.

Data Current as of October 6, 2012

The Economist

Special report: America's competitiveness

In this special report

- Cheer up
- Brainbox nation
- Deep sigh of relief
- Value-added remodelling
- Own goal
- A time for renewal
- Let 50 flowers bloom

Sources & acknowledgmentsReprints

Education

Value-added remodelling

America's schools are getting their biggest overhaul in living memory

Mar 16th 2013 | From the print edition



Counting their Mandarin blessings

"THIS BUSINESS", SAYS John Demby, the principal (headmaster) of Sussex Tech, a high school in Delaware, "has changed dramatically in a very short period." This year, like all principals in the state, he is evaluating teachers under a new system for the first time. The state is also adopting a new curriculum for English and maths, the "common core". That will require changes to the state's regular computerised tests for students, themselves only three years old. On top of all that, Sussex Tech is launching a scheme to allow students to start accumulating college credits while still in high school. And it is overhauling the vocational training it offers in order to serve local businesses better and to provide students with more useful qualifications.

It is not just Sussex Tech; all Delaware's schools are undergoing a similar upheaval, thanks to a series of reforms championed by Jack Markell, Delaware's governor. He has made education reform a centrepiece of his tenure because he sees it as critical to the state's competitiveness. (It is the states that regulate education in America, although the federal government often tries to bribe them to adopt its pet policies.)

Mr Markell is especially proud of the 100 children at the McIlvaine Early Childhood Centre, a kindergarten in the hamlet of Magnolia, who are being taught exclusively in Mandarin for half of each day. Beneath gaudy paper dragons the five-year-olds adopt poses that mimic the Chinese characters for the numbers one to ten. Barely three months into the school year all of them were able to count to 100 in both English and Chinese, way ahead of curriculum requirements, says the principal.

Mr Markell plans to expand immersion classes like these from 340 to 1,000 students next year and hopes to reach 10,000 in a decade. But he is also enthusiastic about more workaday schemes, including one which aims to increase the quality of pre-schools that take in poor children on state subsidies, so that they will be up to speed when they start school.

On your marks

Since he took office in 2009, Mr Markell has campaigned to overhaul most aspects of education in the state, paying particular attention to raising standards for both children and teachers, especially in the worst schools. Those also happen to be the main targets of Mr Obama's biggest initiative in education, Race to the Top (RTT), which awards grants on a competitive basis to states and school districts that present the best plans for such improvements. Delaware was the first state, along with Tennessee, to win a Race to the Top grant, in 2010.

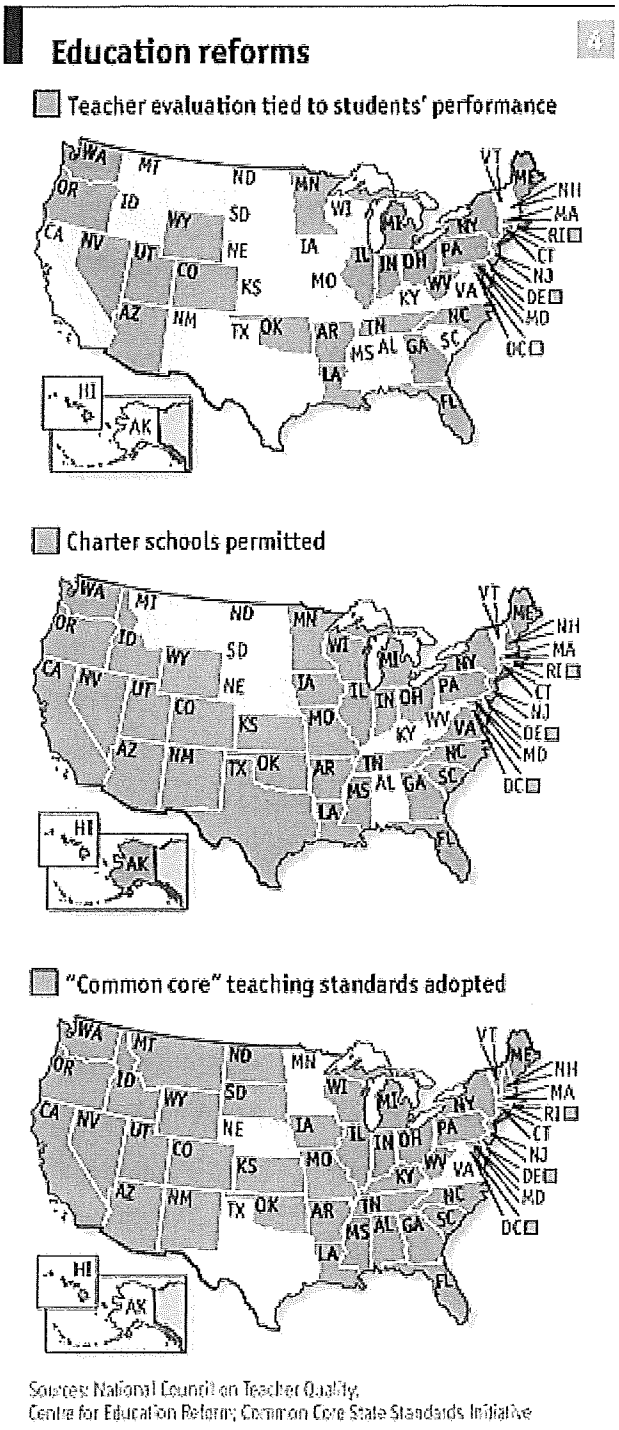
Nineteen states have now received RTT grants, and all but four have applied for them. Along the way they have undertaken, among other things, to conduct more rigorous evaluations of both students and teachers, to make better use of the resulting data and to foster charter schools, meaning state-funded schools that operate independently of local school districts. The federal government is also encouraging the adoption of the common core, developed by a group of state governments to deal with inconsistencies and lax standards in their individual curriculums.

All this comes on the heels of the previous federal education reform, No Child Left Behind, which required schools to show big improvements in students' test scores. In fact the targets were so demanding that 34 states have had to ask the Obama administration to waive them. It has done so, but only on condition that they follow RTT-like policies.

The result has been a dramatic acceleration of reforms in America's public schools, at least on paper. All but five of the 50 states have adopted the common core. All but eight now allow charter schools (see chart 4). Thanks to No Child Left Behind, they all now track and publish the performance of individual schools and intervene at the feeblest ones. Most states also have some sort of evaluation system for teachers.

Many states have gone beyond the changes demanded by the federal government. Seventeen now offer vouchers for use in private schools to some students or give tax breaks to people who donate to scholarship funds. Thirty-eight are experimenting with new pay structures for teachers or principals, often with a performance-related element. Thirty-seven had applied for RTT-like grants to boost attendance at and quality of pre-schools, even before Mr Obama announced a push to improve and expand early-childhood education last month. From nurseries to technical colleges, in short, America is subjecting its schools to a vigorous shake-up.

How effective all these changes will be is not yet clear. In Delaware Mr Markell points to last year's double-digit increases in the proportion of students rated "proficient" in reading and maths in statewide tests. But only nationwide tests, due to be conducted later this year, will provide a comparative measure of the state's progress.



The proof of the pudding

Equally, it is far too early to tell whether all the tumult in education policy will lift America up in the international rankings. But its supposedly dire performance in these comparative tests needs qualifying anyway. The results of the two most widely cited ones, PISA and TIMSS, are inconsistent. TIMSS, which is put together by an international consortium of research institutes, puts America in or near the top ten in maths and science, with Russia among the countries that

consistently beats it. PISA, compiled by the OECD, puts America much lower down but still well ahead of Russia. Neither has been around for very long (12 years for PISA, 18 for TIMMS), and although America has never been rated especially highly, by and large its scores are improving. Moreover, certain states, most notably Massachusetts, perform far better than the national average.

Most academic research suggests that the education reforms of recent years have produced only small, if any, improvements in students' test scores. So far the effects of introducing charter schools, vouchers and tougher standards for schools, teachers and students have been underwhelming, says Bill Evers, a former assistant secretary of education. It does not help that teachers' unions dislike charter schools and vouchers and are suspicious of RTT's enthusiasm for "value-added modelling", which involves predicting a student's future test scores from his past results and then measuring a teacher's effectiveness by the divergence between prediction and actual performance. Naturally enough, teachers are all the more reluctant if their pay is to be tied to the assessments.

Such misgivings can be alleviated, however. Delaware has painstakingly developed teacher-evaluation systems for everything from art to repairing cars, and spent most of its RTT grant on training teachers to cope with all the upheaval. Mr Demby, the Sussex Tech principal, has been provided with no fewer than three different coaches: to teach him how to conduct the new evaluations, to use a new data system tracking student achievement and (no wonder) to manage his time efficiently. Mr Markell, in his "State of the state" address this year, proposed raising teachers' starting salaries and paying bonuses to "teacher leaders". The federal Department of Education gave Delaware's RTT application extra marks because it had the support of the local teachers' unions.

Vicki Phillips of the Bill & Melinda Gates Foundation, a charity that spends hundreds of millions of dollars a year trying to improve education in America, points out that the broad principles of reform are now largely accepted. The drive for more rigorous and consistent teacher evaluation has come from a Democratic administration, despite the party's ties with the trade unions. The unions themselves generally do not dispute the need for higher standards and greater accountability, but quibble with the speed and detail of the measures.

A similar consensus has emerged on the reforms to improve vocational training. In spite of the high unemployment rate, many businesses complain that they cannot find enough qualified candidates to fill their vacancies. A survey conducted last year by McKinsey, a consultancy, found that 87% of educational institutions thought they had prepared their students well for employment, but only 49% of employers agreed that their new employees had the training they needed. A similar survey of American manufacturing firms in 2011 by Deloitte, another

consultancy, found that 67% had trouble finding the right people, and that 5% of their jobs remained unfilled for lack of suitable applicants. BCG, yet another consultancy, downplays the current "skills gap" but nonetheless estimates that by 2020 America will be short of some 875,000 machinists, welders, industrial mechanics and the like.

Mr Obama pledged, as part of his re-election campaign, to put an extra 2m people through community colleges, which offer two-year associate's degrees and technical qualifications rather than bachelor's degrees, which typically take four years. To make sure they learn the right skills, he has advocated close partnerships between these colleges and local businesses and suggested steering more money to colleges or teachers whose students find work. Last year he included a request for $8 billion to pay for all this in his proposed budget, but Congress demurred. Even without its help, however, community colleges around the country are embarking on these sorts of reforms. Last year 24 states adopted laws intended to increase access to technical education or align it better to the needs of local businesses.

Cheryl Hyman, the boss of Chicago's network of community colleges, is only too aware of the pitfalls of poor training. In the 1980s she spent three months studying for an IT qualification that cost her $3,500 in tuition fees and turned out to be useless. To ensure that none of the 120,000 students in Chicago's city colleges suffers a similar fate, she is working with Mr Emanuel, the mayor, on a programme called College to Careers.

First, the city consulted local companies and economists to find out what qualifications were in demand now or would be in the future. It then enlisted businesses—84 so far—both to help shape the curriculum in those fields and to give students opportunities for work experience. This arrangement is good for both parties, says Larry Goodman, the CEO of Rush University Medical Centre, a local hospital. Employers can be sure of a steady stream of qualified job candidates and can see them at work before making any hiring decisions. Students, for their part, gain practical experience and can be sure that they are learning marketable skills.

Ms Hyman is also trying to make sure that the training the city colleges offer is "stackable", allowing students to gain qualifications without wasting time and money going over the same ground twice. For example, local universities have agreed that they will accept a sequence of increasingly advanced nursing certificates earned at the college to replace the first two years of a four-year nursing degree.

Pile them high, get them cheap

All this allows students to rack up qualifications faster and more cheaply. That, in turn, makes them less likely to drop out and helps them pay for further studies. Many places, including Chicago and Delaware, are encouraging (and paying for) dual enrolment in high school and

community colleges or universities, in order to shift more people into this virtual cycle earlier in life. Kansas is going even further, paying a "bounty" to high schools for each student who earns a technical qualification.

At Sussex Tech students will soon be able to earn enough credits for half a bachelor's degree from a local university, at no extra cost, saving them tens of thousands of dollars in tuition fees. As it is, they can get a certification in dental radiology as juniors, for example, and then qualify as dental assistants as seniors—and this is just one of 15 technical subjects in which the schools offers qualifications. In a mock dentist's practice a mop-haired teenager leans over a classmate's open jaw, muttering something about "adjusting the rheostat". A poster behind him gives details of orthodontists' pay scales. Mr Demby looks on with pride. "As schools," he says, "we have to create a smarter product to be competitive."

From the print edition: Special report

Missouri
DEPARTMENT OF ELEMENTARY & SECONDARY
EDUCATION™

DRAFT #2

as of Dec. 29, 2011

No Child Left Behind
Flexibility Waiver Request

The Department of Elementary and Secondary Education received the go-ahead from the State Board of Education during its Dec. 1-2 meeting to publicly share a first draft of what could become Missouri's flexibility waiver application for the No Child Left Behind Act (NCLB).

Based on feedback we have received during our public comment period, we have made changes to the initial draft and are now looking for additional public feedback regarding draft two.

The U.S. Department of Education is inviting each state education agency to voluntarily submit an alternate proposal that would provide state and local education leaders with flexibility regarding specific requirements of NCLB.

The waiver would allow states to exchange current regulatory, administrative and reporting requirements for comprehensive state-developed plans designed to improve educational outcomes for all students.
The state education department is now inviting the public to review the draft and provide input to the waiver application and the three principles addressed in the criteria:

- College and career-ready expectations for all students
- State-developed differentiated recognition, accountability and support
- Support for effective instruction and leadership

Additional information is available for review on the Missouri ESEA Flexibility Web page at:
dese.mo.gov/qs/esea-waiver.html

- Introductory presentation (22-minutes, recorded)
- Frequently Asked Questions
- Additional information

The Department continues to collect public feedback. Revisions will be made as needed before taking the waiver application to the State Board of Education for consideration on Jan. 17, 2012.

Please submit feedback via email to: esea@dese.mo.gov

Exhibit 8

Growth Model

As a part of analyzing and expanding the state scoring system, the Department initiated a timely and important project to pilot measures of student growth in achievement. The Department conducted this pilot project in order to learn more about the policies and procedures required to accurately report and appropriately use valid and reliable student growth data.

This two-year pilot began in the fall of 2010 and will conclude in the fall of 2012. All Missouri school districts were invited to participate in the pilot. One hundred fifty-seven are participating. Representatives from the Governor's office, Missouri School Boards Association, Missouri Association of School Administrators, Missouri Association of Elementary School Principals, Missouri Association of Secondary School Principals, Missouri Department of Higher Education, Missouri American Federation of Teachers, Missouri National Education Association, Missouri State Teachers Association, and Missouri Parent-Teacher Association provide oversight and guidance for the project and serve as the project steering committee.

During the regional meetings, stakeholders supported the use of growth data in the district accountability system. The department continues in its study to consider how growth data will be incorporated into MSIP 5. These decisions will be included in the MSIP 5 APR scoring guide.

DRAFT #2

Annual Measurable Objectives

Missouri's goal of moving towards one accountability system will be reflected in AMOs that are ambitious yet attainable. Performance levels for each indicator and overall system performance are to be determined. Scoring guide advisory committee meetings are currently underway. Information will be added to this document once it is available in January.

Reward Schools

Incentivizing and rewarding performance for high achievement has proven successful at the district level for Missouri. The Department agrees that schools will benefit as well from incentive and rewards to help support the acceleration of the improvement process.

Criteria to be utilized in identifying schools will be available upon the development, completion, and approval of the scoring guide. This section will be modified once the Scoring Guide is available in January.

Priority Schools

The criteria for identifying priority schools will be available upon the development, completion, and approval of the scoring guide. This section will be modified once the Scoring Guide is available in January.

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:	**January 2013**
UPDATE ON EDUCATOR EVALUATION PILOT	
STATUTORY AUTHORITY: Section 161.380.22, RSMo	☐ Consent Item ☐ Action Item ☒ Report Item

DEPARTMENT GOAL NO. 3:

Missouri will prepare, develop, and support effective educators.

SUMMARY:

A first version of the Educator Evaluation System was completed and presented to the State Board of Education in June 2012. It was then presented to educators in a series of breakout sessions at the Administrator's Conference later that summer. Following the conference, regional orientation meetings were conducted across the state to provide further information to educators about the state's model and to orientate them to the Essential Principles of Effective Evaluation. These principles reflect current research on how to accurately assess performance and promote growth in practice. As articulated in Missouri's NCLB Waiver, the local evaluation process in every district in the state must align to these principles. As such, districts during the orientation meeting conducted an audit of their local process to determine the current extent of alignment.

Significant efforts are currently underway that build on this initial work. A statewide pilot project is being conducted in 104 districts across the state to test the system's process and to gather feedback on potential revisions. In addition, guidelines are being created to offer additional support to districts. These guidelines are informed by data collected through the regional orientation meetings and are specific to the essential principles of effective evaluation.

PRESENTER(S):

Paul Katnik, Interim Assistant Commissioner, Office of Educator Quality, will assist with the presentation and discussion of this agenda item.

THE OFFICE OF EDUCATOR QUALITY

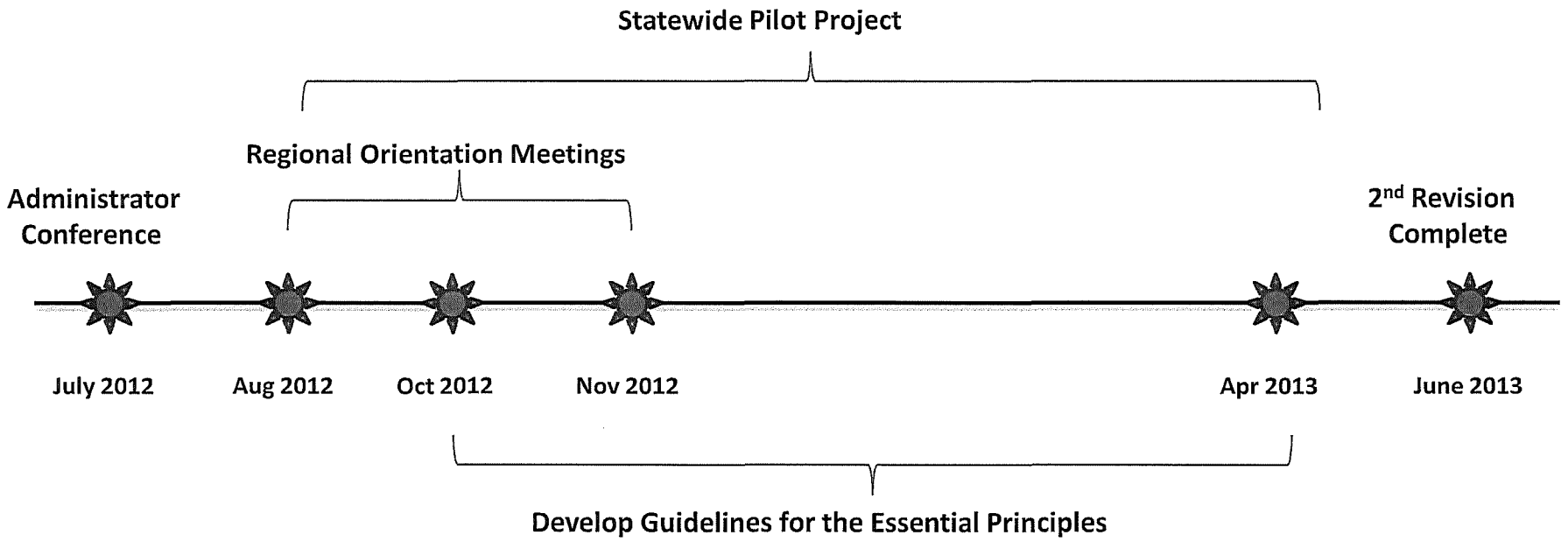
State Board of Education

Update on the Educator Evaluation System

January 23, 2013

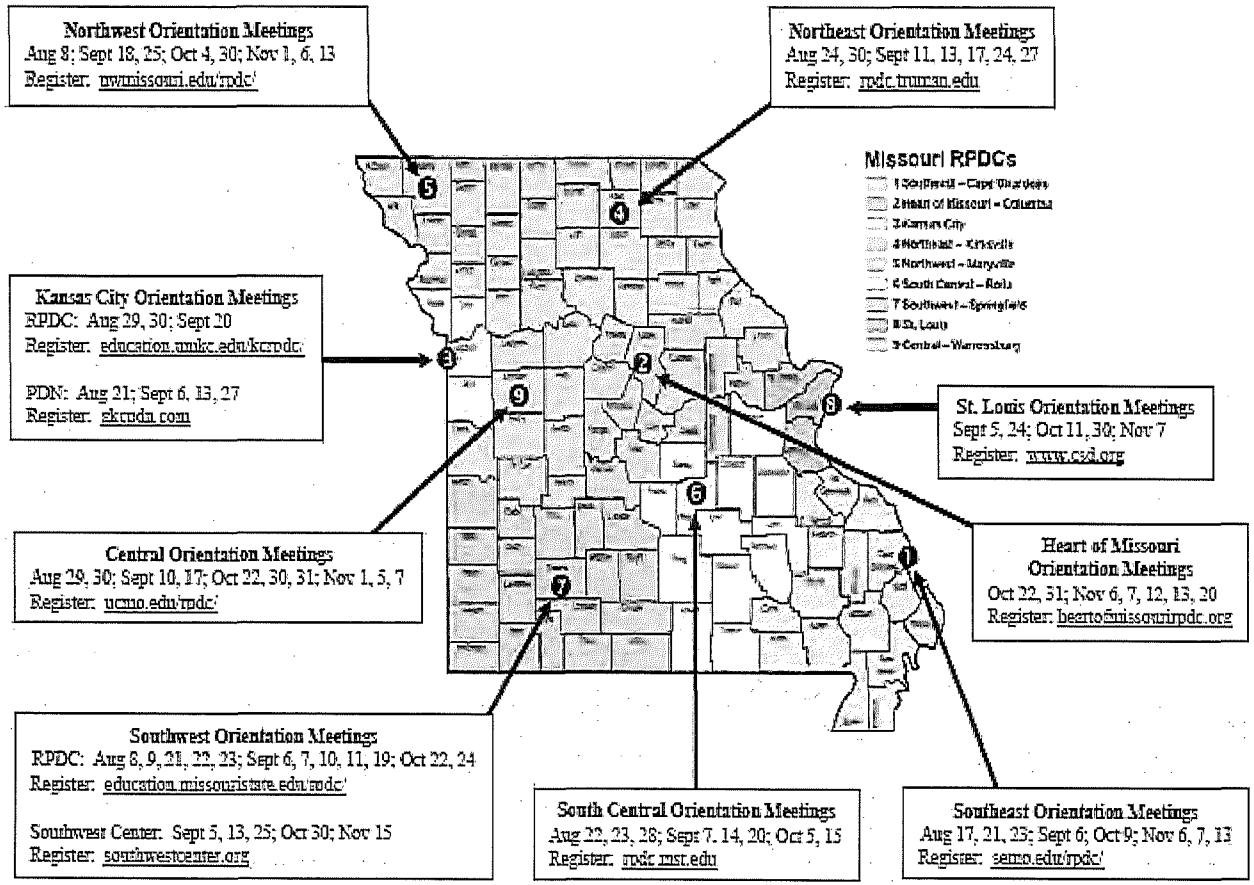
Missouri Department
of Elementary and Secondary Education

Missouri Educator Evaluation System



Regional Orientation Meetings

Missouri Educator Evaluation System
Regional Orientation Meetings



Attendance:

- ✓Nearly 400 districts
- ✓Over 1,300 participants
- ✓10 universities

Regional Orientation Meetings

The audit of the local evaluation process was conducted using 5 criteria for each of the seven principles. Overall, districts rated highest and lowest on the following:

Principle 1: Research-based proven practices

- High – practices are research-based and proven
- Low – aligned to Senate Bill 291

Principle 2: Differentiates levels of an educator's performance

- High – includes a minimum of 3 levels
- Low – each level is discrete & measureable and provides direction for growth

Principle 3: Probationary period support novice educators

- High – complies with Missouri statute indicating 5 years
- Low – focuses on practices particularly significant for novice educators



Regional Orientation Meetings

Principle 4: Includes measures of growth in student learning

- **High – includes formative and summative measures**
- **Low – includes multiple measures of student performance**

Principle 5: Meaningful feedback is provided

- **High – encourages improvement of practice**
- **Low – includes student survey data**

Principle 6: Training for evaluators

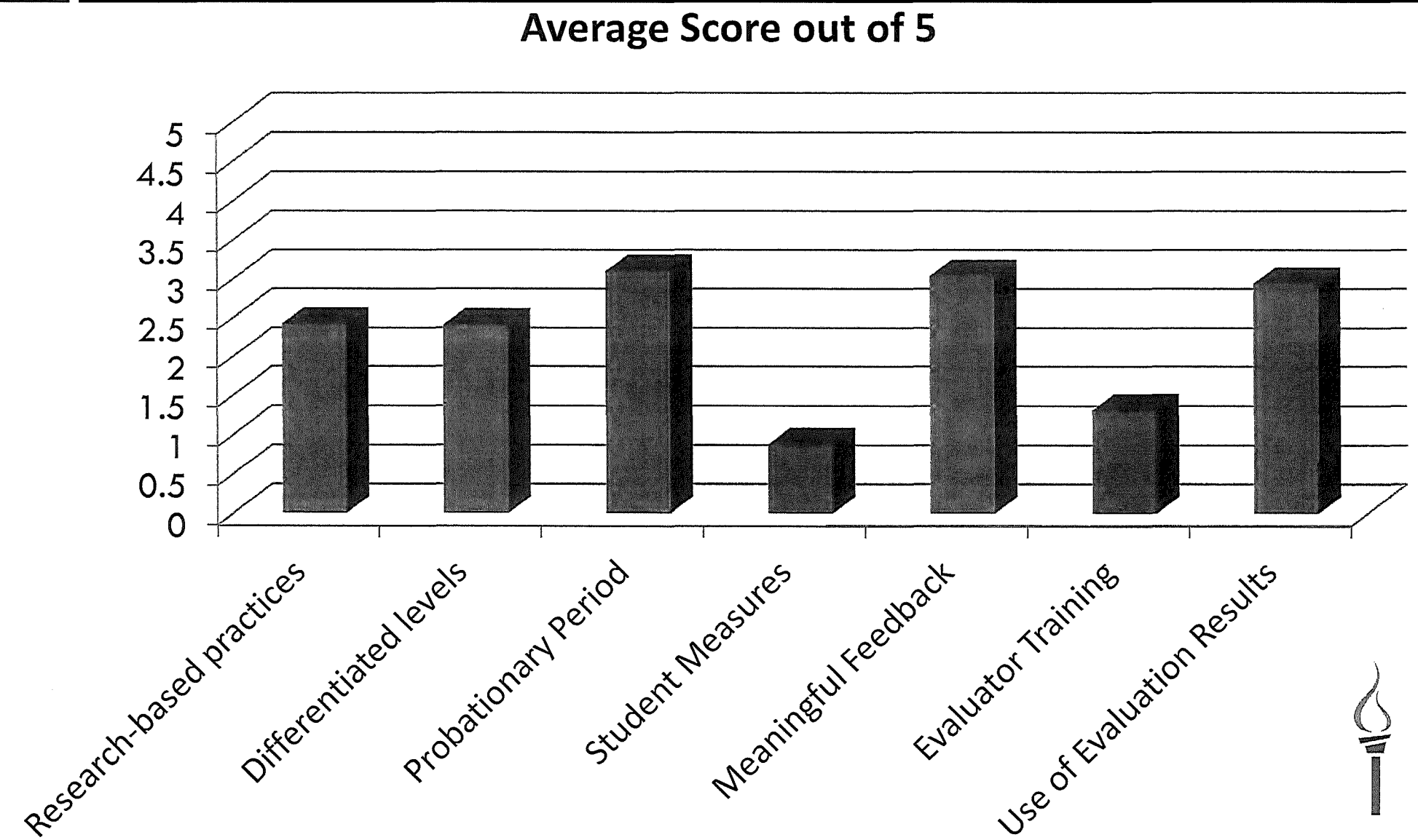
- **High – clear, constructive and timely feedback is provided**
- **Low – master teachers, peers or other 3rd party people are used**

Principle 7: Evaluation results and data inform decision-making

- **High – guides district decisions on recognition and intervention**
- **Low – informs policies that impact the extent of student learning**

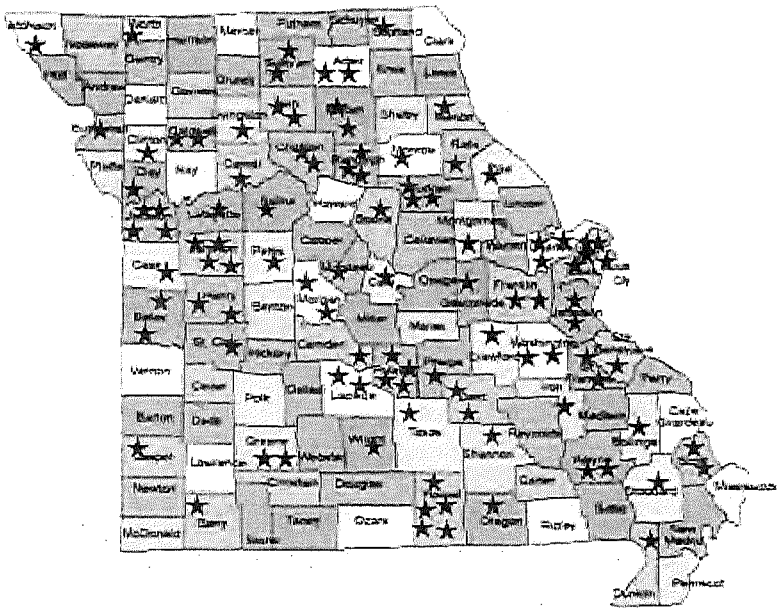


Regional Orientation Meetings



- Every region
- 104 districts/2 charter
- Largest district
- One of the smallest PK-8 districts
- Over 21,000 teachers represented
- Nearly 240, 000 students represented

2012-2013 Pilot Project Districts
Model Educator Evaluation System



Adair Co. R-II
Advance R-IV
Allen Village
Alton R-IV
Arcadia Valley R-II
Ash Grove R-IV
Atlanta C-3
B. Banneker Academy
Belton 124
Bevier C-4
Blair Oaks R-II
Braymer C-4
Brookfield R-III
Brunswick R-II
Campbell R-II
Carrollton R-VII
Central R-III
Chilhowee R-IV
Clarksburg C-2
Clearwater R-I
Clinton Co. R-III
Community R-VI
Crawford Co. R-I
Crocker R-II
Drexel R-IV
Fairfax R-3
Farmington R-VI
Ferguson-Florissant R-II
Festus R-VI
Fox C-6
Francis Howell R-III
Ft. Zumwalt R-II
Gasconade County R-II
Gorin R-III
Green City R-I
Greenville R-II
Hazelwood
Henry County R-I
Hickman Mills C-1
Higbee R-VIII
Holden R-III
Howell Valley R-I
Hume R-VIII
Junction Hill C-12
Kearney R-I
Kelso C-7
Keytesville R-III
Kingston 42
Kirksville R-III
Laclede County C-5
Lakeland R-III
Laquey R-V
Lebanon R-III
Leeton R-X
Lexington R-V
Lift for Life Academy
Linn Co. R-I
Lonedell R-XIV
Malta Bend R-V
Mexico 59
Milan C-2
Moberly
Morgan County R-I
Morgan County R-II
Mountain Grove R-III
Mountain View-Birch Tree R-III
North Wood R-IV
Oak Grove R-VI
Palmyra R-I
Paris R-II
Pattonville R-III
Pike County R-III
Ralls Co. R-II
Renick R-V
Richland R-IV
Richwoods R-VII
Scott City R-I
Sedalia 200
Shawnee R-III
Southwest Livingston Co. R-I
Southwest R-V
Springfield
St. James R-I
St. Joseph
Ste. Genevieve Co. R-II
Stoutland R-II
Sturgeon R-V
Sullivan
Summersville R-II
Swedeborg R-III
Valley Park
Valley R-VI
Van-Far R-I
Warrensburg R-VI
Webb City R-VII
Wellsville Middletown R-I
Wentzville R-IV
West Plains R-VII
Willow Springs R-IV
Winona R-III
Worth County R-III
Zalma R-V

Updated 12/21/2012

Cumulative Years of Experience

4,060.57

Range of Years of Experience

0.30 to 36.00

Average Years of Experience

9.55

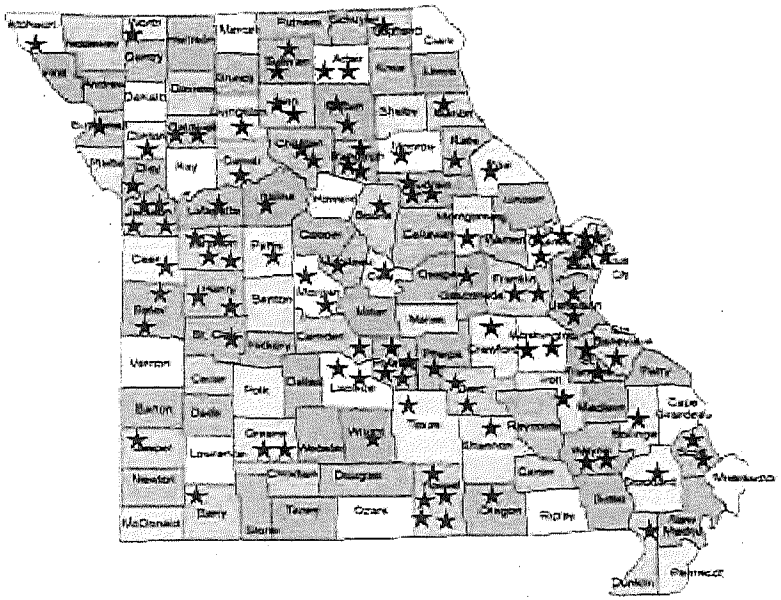
Grade levels

Pre-K through 12th grade

Subjects/Roles

Core content, special education, Title I, hearing impaired, drama, gifted, music, art, P.E., Spanish, industrial arts, counselor, instructional coach, industrial technology, adult education

2012-2013 Pilot Project Districts
Model Educator Evaluation System



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Wellsville Middletown R-I
Wentzville R-IV
West Plains R-VII
Willow Springs R-IV
Winona R-III
Worth County R-III
Zalma R-V

Updated 12/21/2012

District Responsibilities

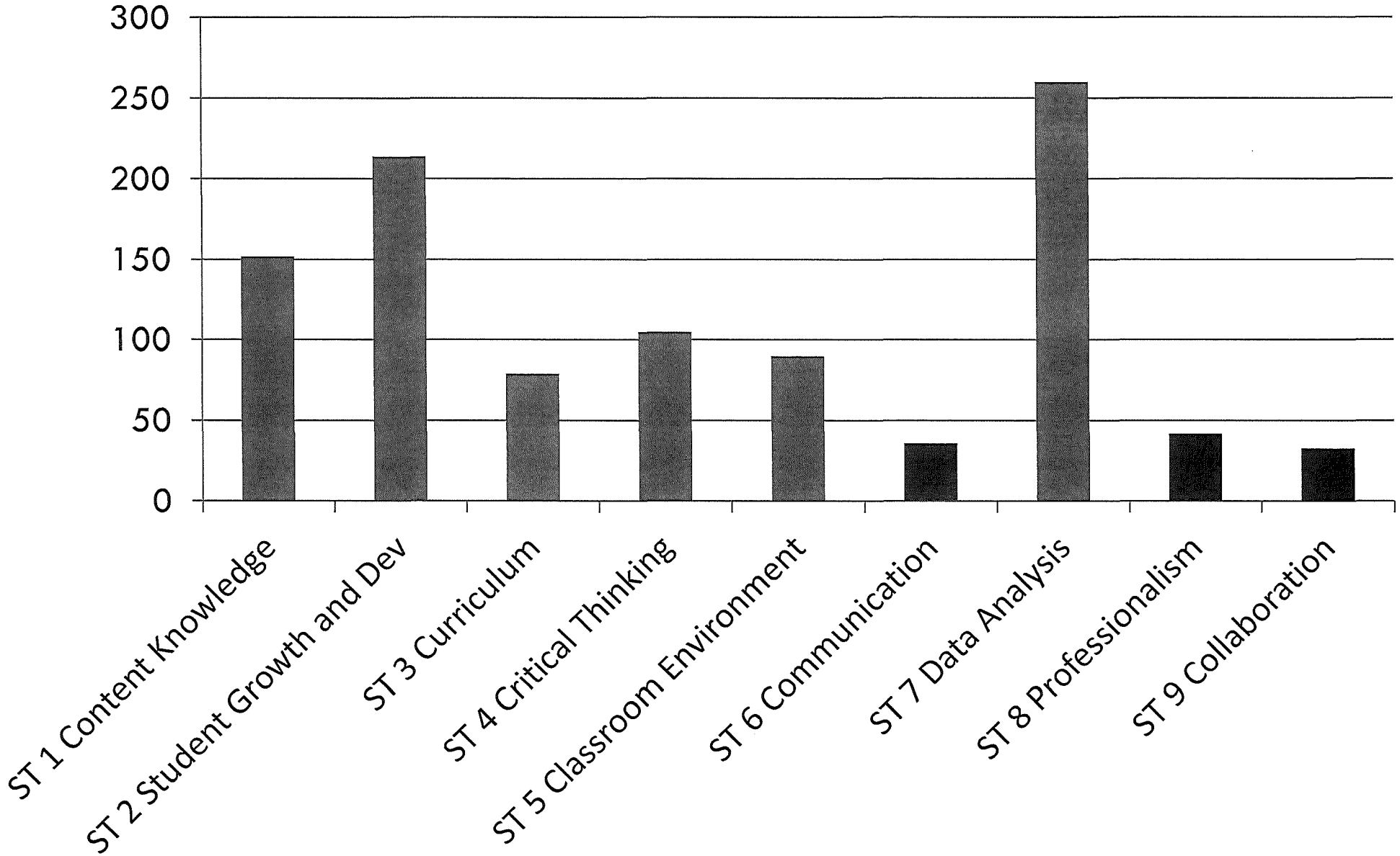
- **Field-test indicators from the model Educator Evaluation System**
  - Determine if the process promotes growth
  - Submit suggested revisions for revisions to the system

- **Provide feedback on draft guidelines**
  - Supporting novice educators through the probationary period
  - Appropriate and significant use of measures of growth in student learning
  - Providing meaningful feedback that leads to improvement and growth
  - Initial and periodic training of evaluators
  - Professional development to promote growth
  - Legal defensibility



Pilot Project

Districts self-selected the indicators
34 of the 36 indicators (94%) are being field-tested



Pilot Project

Districts self-selected the indicators

34 of the 36 indicators (94%) are being field-tested

- **ST 1: Content Knowledge**
  - 1.1 Student use of academic language (#3)
- **ST 2: Student Growth and Development**
  - 2.4 Differentiated lesson design (#2)
- **ST 3: Curriculum Implementation**
  - 3.3 Instructional goals and differentiated strategies
- **ST 4: Critical Thinking**
  - 4.3 Cooperative, small group and independent learning
- **ST 5: Positive Classroom Environment**
  - 5.1 Management, motivation and engagement



Pilot Project

Districts self-selected the indicators

34 of the 36 indicators (94%) are being field-tested

- **ST 6: Effective Communication**
  - 6.4 Technology and media communication tools
- **ST 7: Student Assessment and Data Analysis**
  - 7.1 Effective use of assessments (#1)
- **ST 8: Professionalism**
  - 8.1 Self-assessment and improvement
- **ST 9: Professional Collaboration**
  - 9.2 Collaborating to meet student needs



Educator Evaluation

Target Dates

- **January - February**
  - Data collection from pilot districts
  - Gather feedback on guidelines
- **April - May**
  - Incorporate feedback into revisions to the state's model
  - Complete final draft of the guidelines
  - Develop trainings to build district capacity
- **June**
  - Approval by the State Board of Education

Contact Us:

Paul.Katnik@dese.mo.gov

Missouri
DEPARTMENT OF ELEMENTARY & SECONDARY
EDUCATION™

REORGANIZED SCHOOL DISTRICT NO. 1
OF MONITEAU COUNTY
211 S. Owen Street, Suite B
California, MO 65018
Phone 573-796-2145
Fax 573-796-6123

California R-1 Schools

February 6, 2012

Dear Marc H. Ellinger,

Here is the district response to the Open Records Request received February 3, 2012.

Question #1 - One teacher has been fired in the last ten years

Question #2 - With question #1 that teacher yes was tenured.

Question #3 - Cost of Legal fees to fire this teacher was approximately $36,429.75.

Question #4 - same as #3 question

Question #5 - 23 months

Question #6 - same as #5

Hope this information helps and if you need anything else just let me know.

Thanks,

Susan Oliver

District Bookkeeper/Custodian of Records

Blitz Bardgett & Deutsch, L.C.
Attorneys at Law

308 East High Street, Suite 301
Jefferson City, Missouri 65101-3237
Telephone (573) 634-2500
Facsimile (573) 634-3358
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120 South Central, Suite 1650
St. Louis, Missouri 63105-1742
Telephone (314) 863-1500
Facsimile (314) 863-1877

MARC H. ELLINGER
Email: mellinger@blitzbardgett.com

February 3, 2012

Via Facsimile Transmission 573/796-6123

Custodian of Records
Moniteau County R-I
211 S. Owen Street, Suite B
California, MO 65018-1134

RE: Open Records Request

To the Custodian of Records:

Pursuant to Section 610.023, RSMo, I am requesting the following open records from the Moniteau County R-I:

(1) The number of teachers that have been fired per year for the last ten years;
(2) The number of tenured teachers who have been fired per year for the last ten years;
(3) The cost in legal fees to fire each tenured teacher for the last ten years;
(4) The average cost in legal fees to fire tenured teachers for the last ten years;
(5) The total length of time the termination process took for each tenured teacher fired over the last ten years; and
(6) The average length of time the termination process has taken for all tenured teachers fired in the last ten years.

If the information listed above is not readily available, please send records from which such information can be ascertained. Our preference is to receive the records in an electronic format. Section 610.023.3, RSMo, states that if the records are requested in a certain format, they shall be provided in that format, if available. Still, if the records must be produced in a hard-copy format, per Section 610.026, RSMo, we will pay the actual cost of copying the requested records; however, if the cost is to exceed $100.00, please advise first of the cost charged and itemize the components included in the charge.

Pursuant to Section 610.023, the request shall be acted upon as soon as possible, but not later than the end of the third business day following the date this request was received. Please contact our office at 573-634-2500 as soon as the documents are ready. Thank you for your attention to this matter.

Sincerely,

Marc H. Ellinger, CPA
Attorney at Law

South Iron R-1 School

ADMINISTRATION
JOSEPH JACKSON
High School Principal
LINDA LEWIS
Director of Special Services
MARY BETH MIDDLETON
H.S. Secretary
CRISTIE AYERS
Elementary Principal
JENNIFER BUCKNER
Elementary Secretary

GLENDA TUCKER
Board/Supt. Secretary

DONNIE WAKEFIELD
SUPERINTENDENT
H.S. (573)598-4241-FAX:598-4210
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210 SCHOOL STREET
ANNAPOLIS, MISSOURI 63620

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SARAH SULLIVAN
Members

FACSIMILE COVER SHEET

DATE: 2/8/12 TIME: 8:15 AM

TO: _____ FAX NO. 573-634-3358

FROM: Don Wakefield (Supt)

RE: Tenure Teacher

****

Total number of pages including this page: 22

If you have any difficulties receiving or reading this transmission, please call 573-598-4241 for high school or superintendent's office, or 573-598-4240 for elementary, and ask for _____

SPECIAL INSTRUCTIONS:
We have one tenured teacher removed in the last ten years. This process took about 6 months & is still in litigation. This process has cost the district appx. $17,000 in atty legal fees to this point.

Blitz Bardgett & Deutsch, L.C.

Attorneys at Law

308 East High Street, Suite 301
Jefferson City, Missouri 65101-3237
Telephone (573) 634-2500
Facsimile (573) 634-3358
E-Mail atty@blitzbardgett.com

120 South Central, Suite 1650
St. Louis, Missouri 63105-1742
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Facsimile (314) 863-1877

MARC H. ELLINGER
Email: mellinger@blitzbardgett.com

February 3, 2012

Via Facsimile Transmission 573/598-4210

Custodian of Records
South Iron Co. R-I School Board
210 School Street
Annapolis, MO 63620-0210

RE: Open Records Request

To the Custodian of Records:

Pursuant to Section 610.023, RSMo, I am requesting the following open records from the South Iron Co. R-I School Board:

(1) The number of teachers that have been fired per year for the last ten years;
(2) The number of tenured teachers who have been fired per year for the last ten years;
(3) The cost in legal fees to fire each tenured teacher for the last ten years;
(4) The average cost in legal fees to fire tenured teachers for the last ten years;
(5) The total length of time the termination process took for each tenured teacher fired over the last ten years; and
(6) The average length of time the termination process has taken for all tenured teachers fired in the last ten years.

If the information listed above is not readily available, please send records from which such information can be ascertained. Our preference is to receive the records in an electronic format. Section 610.023.3, RSMo, states that if the records are requested in a certain format, they shall be provided in that format, if available. Still, if the records must be produced in a hard-copy format, per Section 610.026, RSMo, we will pay the actual cost of copying the requested records; however, if the cost is to exceed $100.00, please advise first of the cost charged and itemize the components included in the charge.

Pursuant to Section 610.023, the request shall be acted upon as soon as possible, but not later than the end of the third business day following the date this request was received. Please contact our office at 573-634-2500 as soon as the documents are ready. Thank you for your attention to this matter.

Sincerely,

Marc H. Ellinger, CPA
Attorney at Law

Records Request from BB&D Attorneys & Counselors at Law
September 24th, 2012
Polo R-VII School District

Item #1 through #7

Test	Dates 11-12	Dates 12-13	Grade Level	Used for Teacher Evaluations	Frequency
Stanford	April	April	K-2	NO	Annual
Gates	Sept/April	Sept/April	K-12	NO	Bi-Annual Pre/Post
Explore	Nov	Nov	8	NO	Annual
PLAN	Oct	Oct	10	NO	Annual
PSAT	Oct	Oct	10	NO	Annual (Voluntary)
ASVAB	Oct	Oct	11	NO	Annual
ACT	Sept/Oct/Dec/Feb/April/June		11-12	NO	Annual (Voluntary)
EOC LA I LA II BIO I ALG I ALG II GEO AM GOV AM HIST	May	May	9-12	NO	Annual

Note: All Tests are used and intended to be predictive of student results and/or MAP/EOC results

Items #8 Through #14
Totals for the Last Ten Years

	Asked to Resign	Terminated	Total Cost	Average Cost	Total Time	Average Time	Not Successful
Teachers	11	1	NA	NA	NA	NA	0
Tenured Teachers	4	1	$18,083	$3617	12 M	3M	0

Note: M = Months

BB&D Blitz, Bardgett & Deutsch, LC
Attorneys & Counselors at Law

St. Louis • Jefferson City

Marc H. Ellinger
308 East High Street, Suite 301
Jefferson City, MO 65101
www.bbdlc.com

E-mail: mellinger@bbdlc.com
Telephone: 573/634-2500
Facsimile: 573/634-3358

September 21, 2012

Custodian of Records
Polo R-VII
300 W School St.
Polo, MO 646719352

Re: Open Records Request

To the Custodian of Records:

Pursuant to Section 610.023, RSMo, I am requesting the following open records from the Polo R-VII:

(1) Excluding the MAP test, the name of each standardized, assessment, diagnostic, acuity benchmark test administered to full grade sets in the District including, but not limited to the Terra Nova, Iowa Tests of Basic Skills, and Standard Achievement Tests;
(2) The date(s) when such test was administered in the 2011-12 school year;
(3) The date(s) when such test is to be administered in the 2012-13 school year;
(4) The name of any test administered which is intended to be predictive of student results or MAP test results;
(5) The name of any test identified in responses 1 and 4 which are used for teacher evaluations;
(6) The frequency of which each test identified in 1, 4 and 5 are given to students (e.g., yearly, semesterly, etc.);
(7) The grade sets for which any test identified in 1, 4 and 5 are given;
(8) The number of teachers that have been asked to resign, terminated or fired per year for the last ten years;
(9) The number of tenured teachers who have been asked to resign, terminated or fired per year for the last ten years;
(10) The cost in legal fees to seek resignation, termination or to fire each tenured teacher for the last ten years;

(11) The average cost in legal fees to seek resignation, termination or to fire tenured teachers for the last ten years;
(12) The total length of time the process took for each tenured teacher asked to resign, terminated or fired over the last ten years;
(13) The average length of time the termination process has taken for all tenured teachers asked to resign, terminated or fired in the last ten years; and
(14) The number of teachers the District has attempted to terminate or fire and has been unsuccessful per year for the last ten years.

Our preference is to receive the records in an electronic format. Section 610.023.3, RSMo, states that if the records are requested in a certain format, they shall be provided in that format, if available. Still, if the records must be produced in a hard-copy format, per Section 610.026, RSMo, we will pay the actual cost of copying the requested records; however, if the cost is to exceed $100.00, please advise first of the cost charged and itemize the components included in the charge.

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Thank you for your attention to this matter.

Sincerely,

Marc H. Ellinger, CPA
Attorney at Law

MHE:srh

Question Number: 1	OLSAT 8
Question Number: 2	Winter 2012
Question Number: 3	Fall 2012
Question Number: 4	None
Question Number: 5	None
Question Number: 6	Yearly
Question Number: 7	First Grade
Question Number: 8	2002-03: No data 2003-04: No data 2004-05: 4 2005-06: 1 2006-07: 0 2007-08: 1 2008-09:
	2009-10: 1 2010-11: 2 20011-12:
Question Number: 9	2002-03: 0 2003-04: 0 2004-05: 0 2005-06: 0 2006-07: 0 2007-08: 0 2008-09: 0 2009-10: 0
	2010-11: 0 20011-12: 1
Question Number: 10	$7,950.20
Question Number: 11	No information available
Question Number: 12	53 Days
Question Number: 13	No information available
Question Number: 14	None

Exhibit 13

09/24/2012 04:30 6365861009 DE SOTO 73 PAGE 04/04

Blitz, Bardgett & Deutsch, LC
Attorneys & Counselors at Law
St. Louis • Jefferson City

Marc H. Ellinger
308 East High Street, Suite 301
Jefferson City, MO 65101
www.bbdlc.com

E-mail: mellinger@bbdlc.com
Telephone: 573/634-2500
Facsimile: 573/634-3358

September 21, 2012

Custodian of Records
Desoto 73
610 Vineland School Road
Desoto, MO 630202561

Re: Open Records Request

To the Custodian of Records:

Pursuant to Section 610.023, RSMo, I am requesting the following open records from the Desoto 73:

(1) Excluding the MAP test, the name of each standardized, assessment, diagnostic, acuity benchmark test administered to full grade sets in the District including, but not limited to the Terra Nova, Iowa Tests of Basic Skills, and Standard Achievement Tests;
(2) The date(s) when such test was administered in the 2011-12 school year;
(3) The date(s) when such test is to be administered in the 2012-13 school year;
(4) The name of any test administered which is intended to be predictive of student results or MAP test results;
(5) The name of any test identified in responses 1 and 4 which are used for teacher evaluations;
(6) The frequency of which each test identified in 1, 4 and 5 are given to students (e.g., yearly, semesterly, etc.);
(7) The grade sets for which any test identified in 1, 4 and 5 are given;
(8) The number of teachers that have been asked to resign, terminated or fired per year for the last ten years;
(9) The number of tenured teachers who have been asked to resign, terminated or fired per year for the last ten years;
(10) The cost in legal fees to seek resignation, termination or to fire each tenured teacher for the last ten years;

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(14) The number of teachers the District has attempted to terminate or fire and has been unsuccessful per year for the last ten years.

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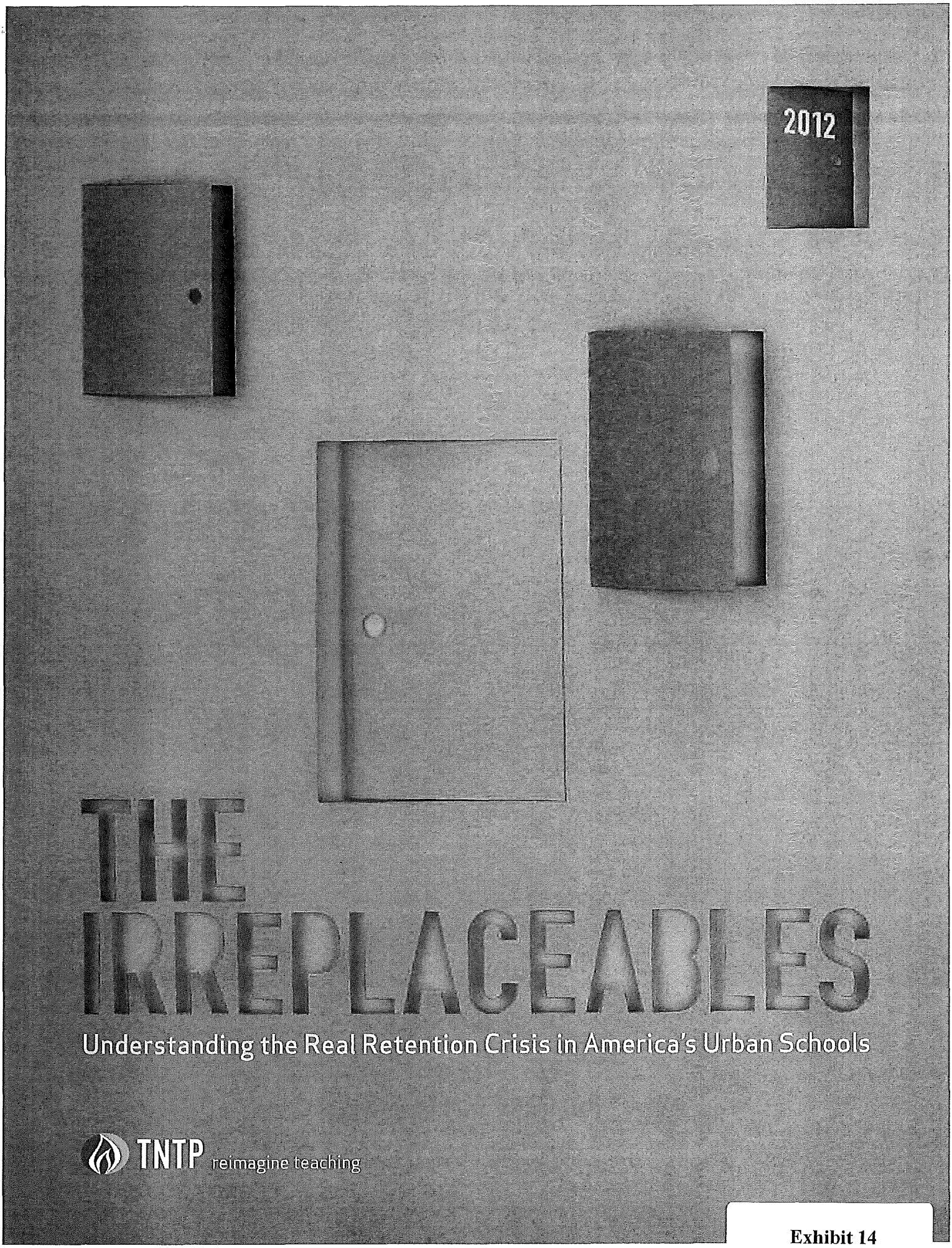
Pursuant to Section 610.023, the request shall be acted upon as soon as possible, but not later than the end of the third business day following the date this request was received. Please contact our office at 573-634-2500 as soon as the documents are ready to be picked up and we will make arrangements to pick them up and pay the cost of producing them.

Thank you for your attention to this matter.

Sincerely,

Marc H. Ellinger, CPA
Attorney at Law

MHE:srh

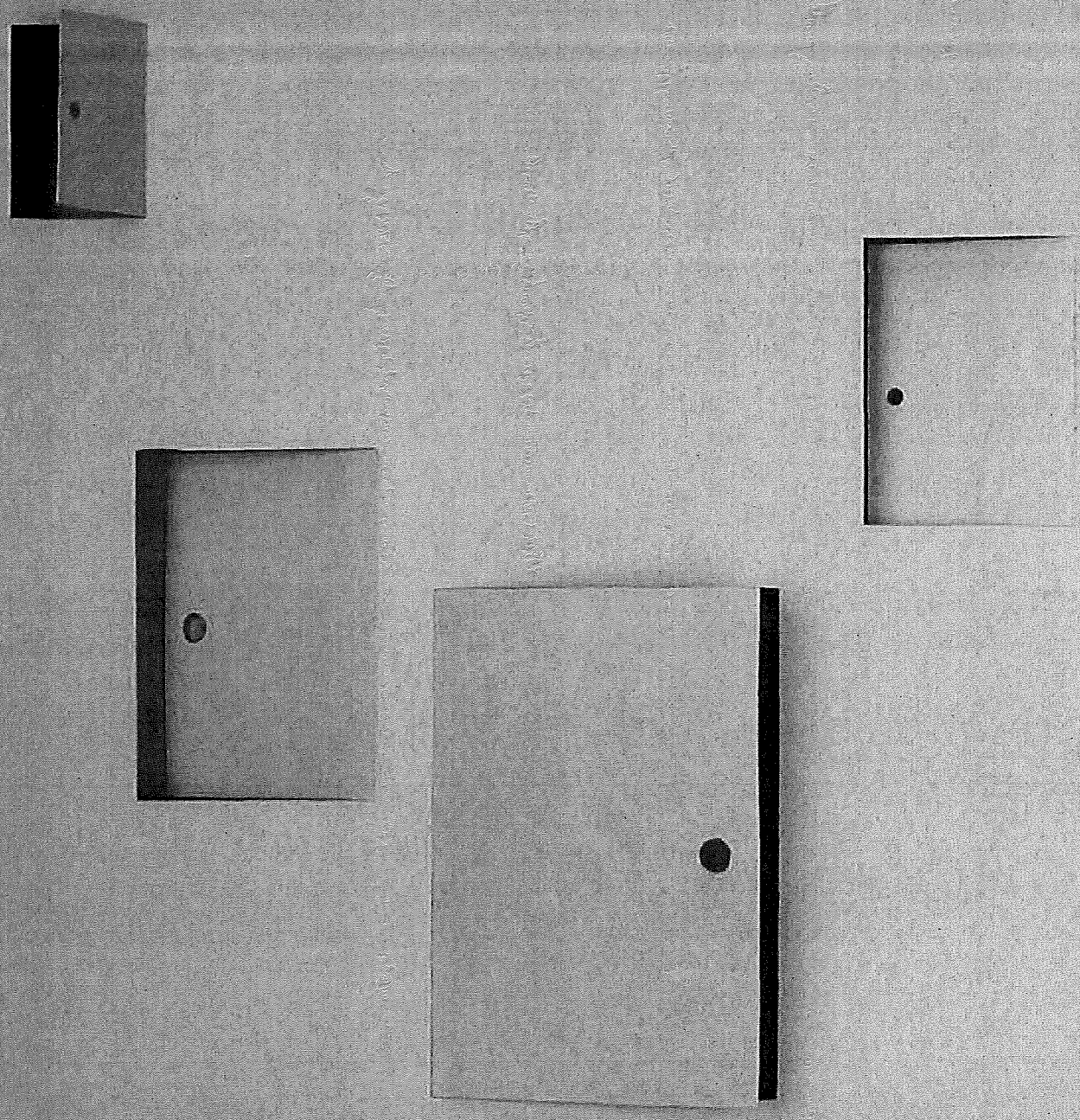


THE IRREPLACEABLES

Understanding the Real Retention Crisis in America's Urban Schools

TNTP reimagine teaching

Exhibit 14



"An effective teacher is worth his/her weight in gold. Too few people really know this."

– School Leader

THE IRREPLACEABLES

Understanding the Real Retention Crisis in America's Urban Schools

01 | INTRODUCTION:
LOSS OF A GREAT TEACHER

07 | OUR MISUNDERSTANDING
OF TEACHER TURNOVER

12 | EXPLORING THE REAL
TEACHER RETENTION CRISIS

27 | RECOMMENDATIONS:
SMART RETENTION

35 | TECHNICAL APPENDIX

41 | NOTES

ACKNOWLEDGMENTS

Many individuals across TNTP were instrumental in creating this report. **Melissa Wu** led our two-year research effort and our talented analyst team: **Kelli Morgan, Jennifer Hur, Kymberlie Schifrin, Lisa Gordon, Gina Russell, Hai Huynh** and **Sandy Shannon**.

Andy Jacob, Elizabeth Vidyarthi and **Kathleen Carroll** led writing and design efforts.

Four members of TNTP's leadership team—**Timothy Daly, Daniel Weisberg, David Keeling** and **Amanda Kocon**—were deeply involved in every stage of the project. **Crystal Harmon** and **Aleka Calsoyas** also answered questions and shared valuable insights along the way.

We are grateful for the contributions of our Technical Advisory Panel: **Jane Hannaway, Eric Hanushek, Cory Koedel, Susanna Loeb** and **James Wyckoff**. Their candid feedback on our methodology and findings helped push our thinking and shape the final report. In addition, we wish to thank **Jessica Levin** for her invaluable input.

Special thanks to the **Bill & Melinda Gates Foundation, Carnegie Corporation of New York, Charles and Helen Schwab Foundation, Laura and John Arnold Foundation, Joyce Foundation, Noyce Foundation**, and the **Walton Family Foundation**, whose support for our organization makes this work possible.

Finally, we are deeply indebted to the **staff of the school districts** that took part in our study, and to the thousands of **teachers and principals** who answered our questions and helped us understand their experiences.

INTRODUCTION: LOSS OF A GREAT TEACHER

In late May of 2012, as students at Jefferson Elementary School cleaned out their desks and celebrated the start of summer, one of their favorite teachers was packing up her things and leaving, too. Only, unlike them, she wouldn't be back in the fall.

Sarah[1] was a successful public school teacher with more than three decades of experience in her large Southern city. She had come to Jefferson on a mission: to share her considerable skills with staff and students at a school struggling with painfully low achievement.

Despite the challenges her low-income students faced, Sarah helped them make extraordinary academic strides compared with other teachers in her school and district. Almost all of her two dozen fourth-grade students spoke Spanish at home, and their English skills were shaky. But when they took required math and reading tests in English that spring, all but one passed the math exam, and all but four passed reading.

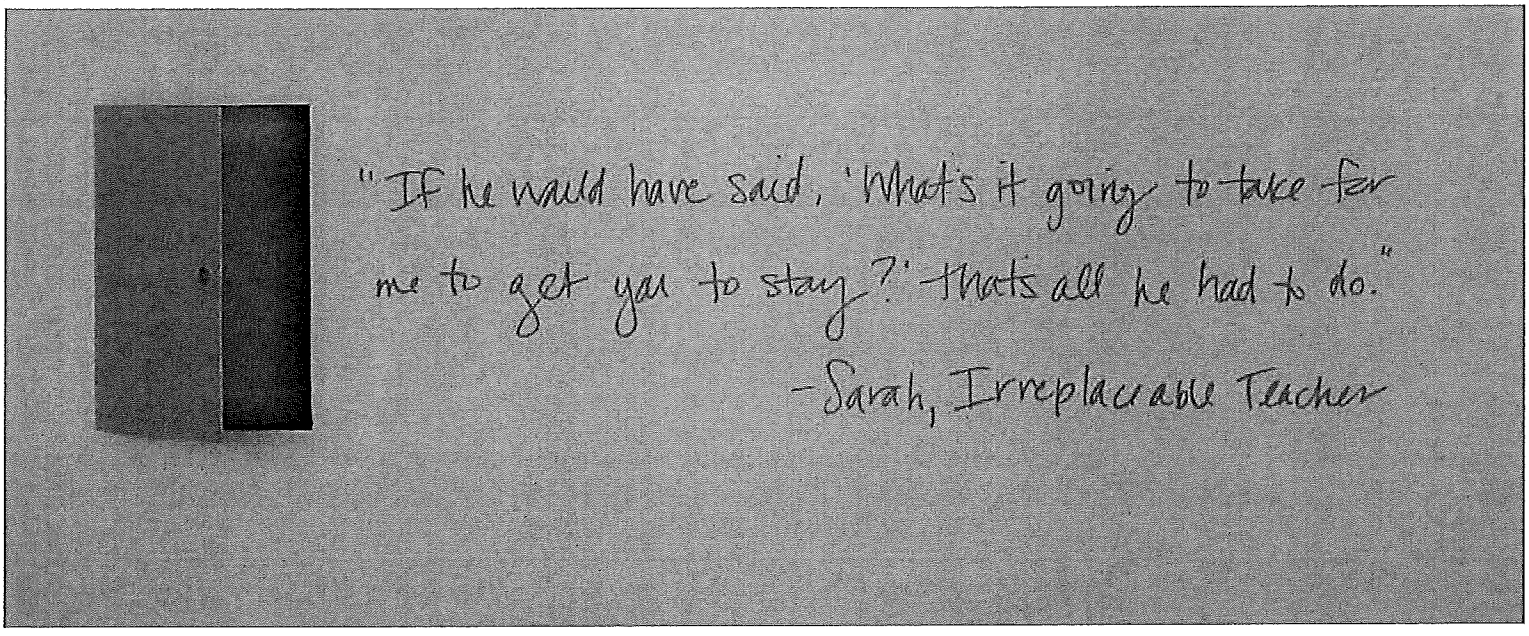
Just as important, students enjoyed spending time in her classroom. Raucous 10-year-olds who wouldn't stay in their seats in September were relaxed and reading together on the story rug by November. They treated one another with kindness, and looked to Sarah as a trusted ally and confidante. In turn, she felt committed to her students and proud of their accomplishments. She didn't want to pick up and move.

Yet there she was at the end of the year, relocating to a public school across town. There was little point in sticking around Jefferson, she figured, since school leaders gave her little recognition, failed to take advantage of her instructional expertise and stymied the sort of team-building and collaboration that had helped her boost performance among students and fellow teachers at other schools for decades.

Sarah made the heartbreaking decision to leave after she began to feel that she was only supporting a failing system. "I get strong results with students consistently, year after year after year," she said. "These kids have learned so much and come so far. They've really stepped up to the plate. But if they go back to a bad teacher, what good did I do?"

She felt Jefferson's indifference to her talent and contributions to the very end. When she resigned, the principal "just signed my paperwork, and didn't even say a word," she said. "It made me feel like he couldn't care less, not about me and not about this school."

"If he would have said, 'What's it going to take for me to get you to stay?' that's all he had to do," she said. "Most people, if they had a really dynamic teacher, wouldn't they say, 'What's it going to take?'"



WHO ARE THE IRREPLACEABLES?

Sarah isn't alone in her success in the classroom or her experience at her school. She is part of a group we call the "Irreplaceables"—teachers who are so successful they are nearly impossible to replace, but who too often vanish from schools as the result of neglect and inattention.[2]

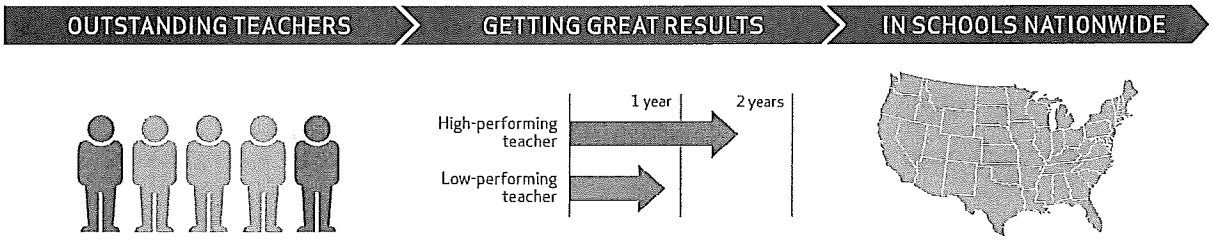
To identify and better understand the experience of these teachers, we started by studying 90,000 teachers across four large, geographically diverse urban school districts. We also examined student academic growth data or value-added results for approximately 20,000 of those teachers. While these measures cannot provide a complete picture of a teacher's performance or ability on their own—and shouldn't be the only measure used in real-world teacher evaluations—they are the most practical way to identify trends in a study of this scale, and research has demonstrated that they show a relationship to other performance measures, such as classroom observations.[3] We used the data to identify teachers who performed exceptionally well (by helping students make much more academic progress than expected), and to see how their experiences and opinions about their work differed from other teachers'—particularly teachers whose performance was exceptionally poor.

So who are the Irreplaceables? They are, by any measure, our very best teachers. Across the districts we studied, about 20 percent of teachers fell into the category. On average, each year they help students learn two to three additional months' worth of math and reading compared with the average teacher, and five to six months more compared to low-performing teachers.[4] Better test scores are just the beginning: Students whose teachers help them make these kinds of gains are more likely to go to college and earn higher salaries as adults, and they are less likely to become teenage parents.[5]

Teachers of this caliber not only get outstanding academic results, but also provide a more engaging learning experience for students. For example, when placed in the classroom of an Irreplaceable secondary math teacher, students are much more likely to say that their teacher cares, does not let them give up when things get difficult and makes learning enjoyable *(Figure 3)*.[6]

Irreplaceables influence students for life, and their talents make them invaluable assets to their schools. The problem is, their schools don't seem to know it.

FIGURE 1 | WHO ARE THE IRREPLACEABLES?



IRREPLACEABLES
Top 20% of teachers in studied districts, as gauged by district data

STUDENT IMPACT
Generate 5 to 6 more months of student learning each year than a poor performer

SCOPE
4 urban districts, with 2,100 schools, 90,000 teachers, 1.4 million students

The "Irreplaceables" are teachers so successful that they are nearly impossible to replace.

Estimates of Irreplaceables percentage based on teachers with value-added or growth data; District A high performers: 21%; District B high performers: 20%; District C high performers: 20%; District D high performers: 18%; Student impact estimates calculated following the methodology of Hahnel and Jackson (2012). Source: District data from SY 2009-10 and SY 2010-11.

IS GREAT TEACHING A MINDSET OR A SKILLSET?

Irreplaceables are not fictional superheroes. Aside from their outstanding results in the classroom, they don't fit a particular mold. They represent a wide range of experience levels and teaching styles. They teach similarly-sized classes as other teachers. They are just as likely to teach in impoverished communities as their peers *(Figure 2)*.[7]

That is not to say that Irreplaceables do not differ at all from other teachers in their views. Compared to low-performing teachers, for instance, Irreplaceables are slightly more likely to believe that effective teachers can help students overcome out-of-school challenges and are more likely to understand their own effectiveness.[8]

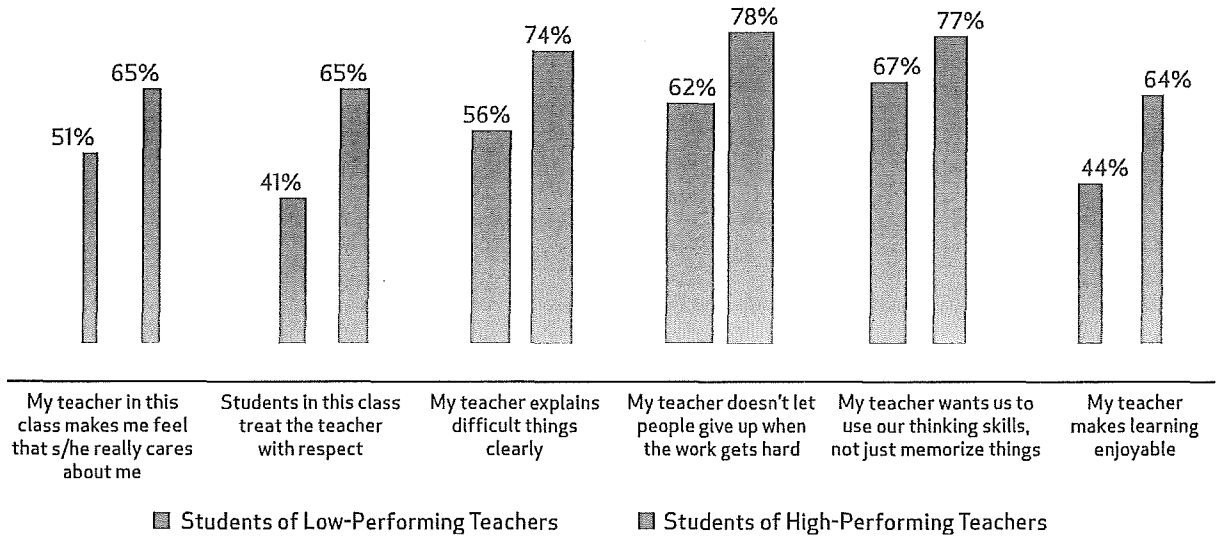
In general, though, the results suggest that great teaching is more a matter of skill than of mindset. For example, all the teachers in our study—Irreplaceables, low performers, and those in between—generally work very hard, about 50 hours per week.[9] Irreplaceables don't succeed because they are saints or workaholics, and low-performing teachers don't struggle because they are lazy or less committed to their students. In teaching, as in any other profession, some people are more successful at their jobs than others. Diligence and good intentions are poor predictors of good teaching.

FIGURE 2 | CHARACTERISTICS OF IRREPLACEABLES

		LOW PERFORMERS	ALL TEACHERS with Performance Data	IRREPLACEABLES
BACKGROUND & WORKLOAD	Years of experience as a teacher	10	9	9
	Total workload (hours/week)	50	50	50
	Class size (number of students)	28	27	27
	High-poverty students	85%	90%	90%
ATTITUDES & BELIEFS	Belief that effective teachers can lead students to success despite challenges	44%	50%	53%
	Understand how effective they are in achieving positive student outcomes	48%	57%	69%
RESULTS	Additional months of student learning, relative to a low performer, per year	--	+3 MONTHS	+6 MONTHS

Source: District D data and survey data. See Note 7 for more details.

FIGURE 3 | SECONDARY-LEVEL STUDENTS RESPONDING "MOSTLY TRUE" OR "TOTALLY TRUE"



Results based on yet unpublished analysis for TNTP by the Measures of Effective Teaching (MET) project. See Note 6 for more details.

THE CHALLENGE: NEGLIGENT RETENTION

The real teacher retention crisis is not simply the failure to retain enough teachers; it is the failure to retain the *right* teachers.

When an Irreplaceable leaves a low-performing school, it can take 11 hires to find one teacher of comparable quality *(Figure 4)*. Yet schools tend to treat their best teachers as though they are expendable. Many Irreplaceables we surveyed—nearly half in some districts—indicated that their schools made little to no effort to retain them.[10] Just like Sarah, an astounding two-thirds told us that their principal hadn't even encouraged them to stay *(Figure 5)*.

Top teachers seem to be shortchanged at every turn. Policies at the state and local level often cause them to earn less than their least effective colleagues and fail to protect them in the event of layoffs. They endure districts and schools that fail to value their talents and do not provide them with supportive school cultures.

As we will show, this pervasive neglect of the nation's best teachers is a disgrace that derails school improvement efforts and robs millions of students of a potentially life-changing education. We estimate that in one year alone, approximately 10,000 Irreplaceables in the nation's 50 largest school districts left their districts, or left teaching entirely.[11] Principals have the power to convince many of these teachers to stay longer, but they often don't even try.

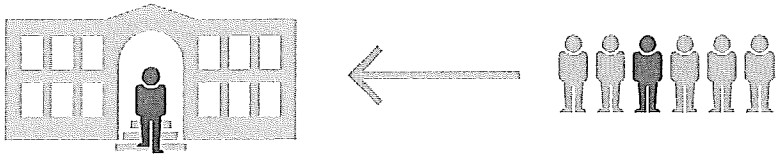
Just as the schools we studied made little effort to retain their Irreplaceables, they made almost no effort to urge low-performing teachers to leave and actually encouraged many to stay—even those who, after years of experience, are still not performing as well as the average first-year teacher.[12] As a result, we estimate that nearly 1 in every 10 classrooms in the districts we studied is led by an experienced but low-performing teacher.[13]

The neglect of Irreplaceables and tolerance for poor performance are two symptoms of an even larger problem, one that undermines the teaching profession itself: a near-total indifference to which teachers stay and which ones leave, no matter how well or poorly they perform. Schools retain their best and least-effective teachers at strikingly similar rates *(Figure 6)*.

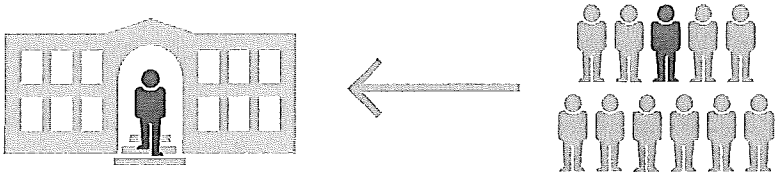
Taken together, these findings reveal the extent to which teacher retention has been misunderstood and misrepresented for decades. The real teacher retention crisis is not simply the failure to retain enough teachers; it is the failure to retain the *right* teachers.

FIGURE4 | LIKELIHOOD OF REPLACING A HIGH PERFORMER WITH A TEACHER OF SIMILAR QUALITY

AVERAGE SCHOOL
When a top teacher leaves
only 1 in 6 potential replacements
will be of similar quality



LOW-PERFORMING SCHOOL
When a top teacher leaves
only 1 in 11 potential replacements
will be of similar quality

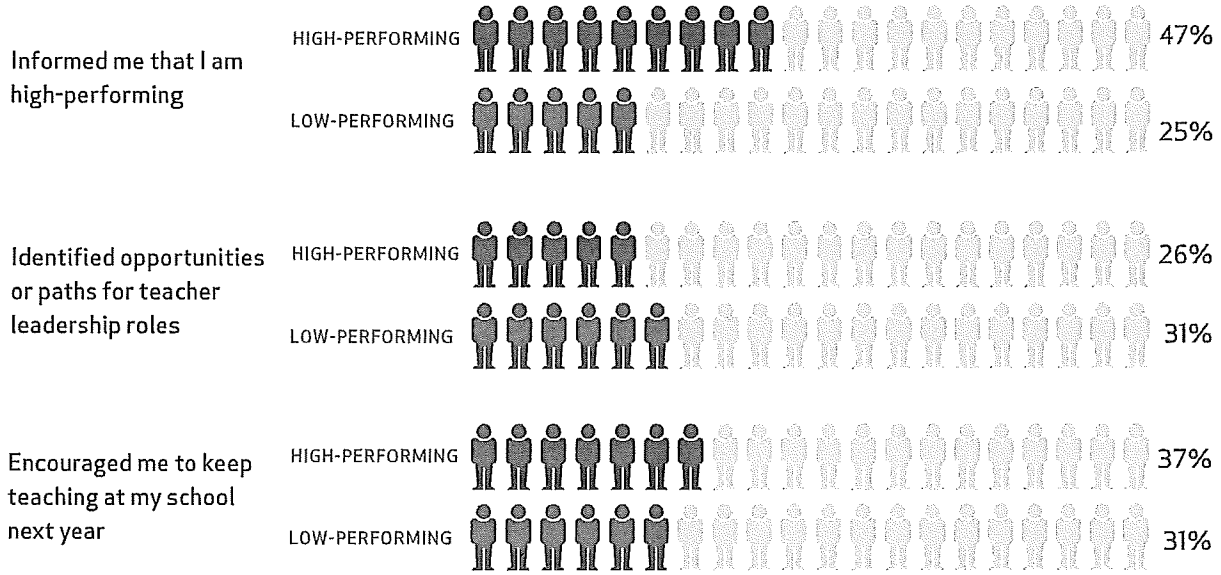


When a great teacher leaves a school,
the school is almost guaranteed to hire a less effective replacement.

Estimates based on teachers with value-added or growth data; Low performing schools include schools in the lowest quintile of proficiency by school level; Percentage of high-performing potential replacements in all schools—District A: 12%; District B: 17%; District C: 15%; District D: 15%; Low-performing schools—District A: 12% ; District B: 10%; District C: 3%; District D: 9%. Source: District data from SY 2008-09 and SY 2009-10.

FIGURE 5 | TEACHERS REPORTING RECOGNITION AT SCHOOL

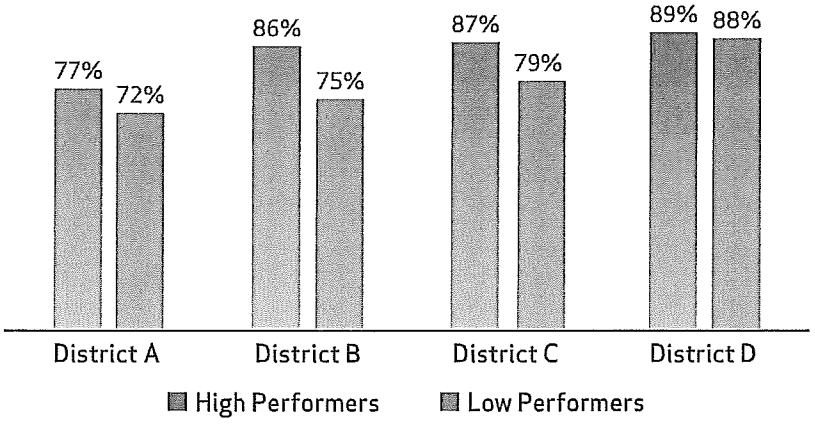
"Last year, someone from my school leadership team..."



Principals use retention strategies at similar rates for high and low performers.

Source: District B data and survey data. Trends confirmed across districts.

FIGURE 6 | SCHOOL RETENTION RATES BY TEACHER PERFORMANCE, 2009-10



Most schools retain Irreplaceables and low performers at strikingly similar rates.

School retention defined as teachers remaining at their school from one year to the next. Source: District data from SY 2009-10 through SY 2010-11.

THE SOLUTION: SMART RETENTION

The solution is to *improve* retention, not to blindly increase it.

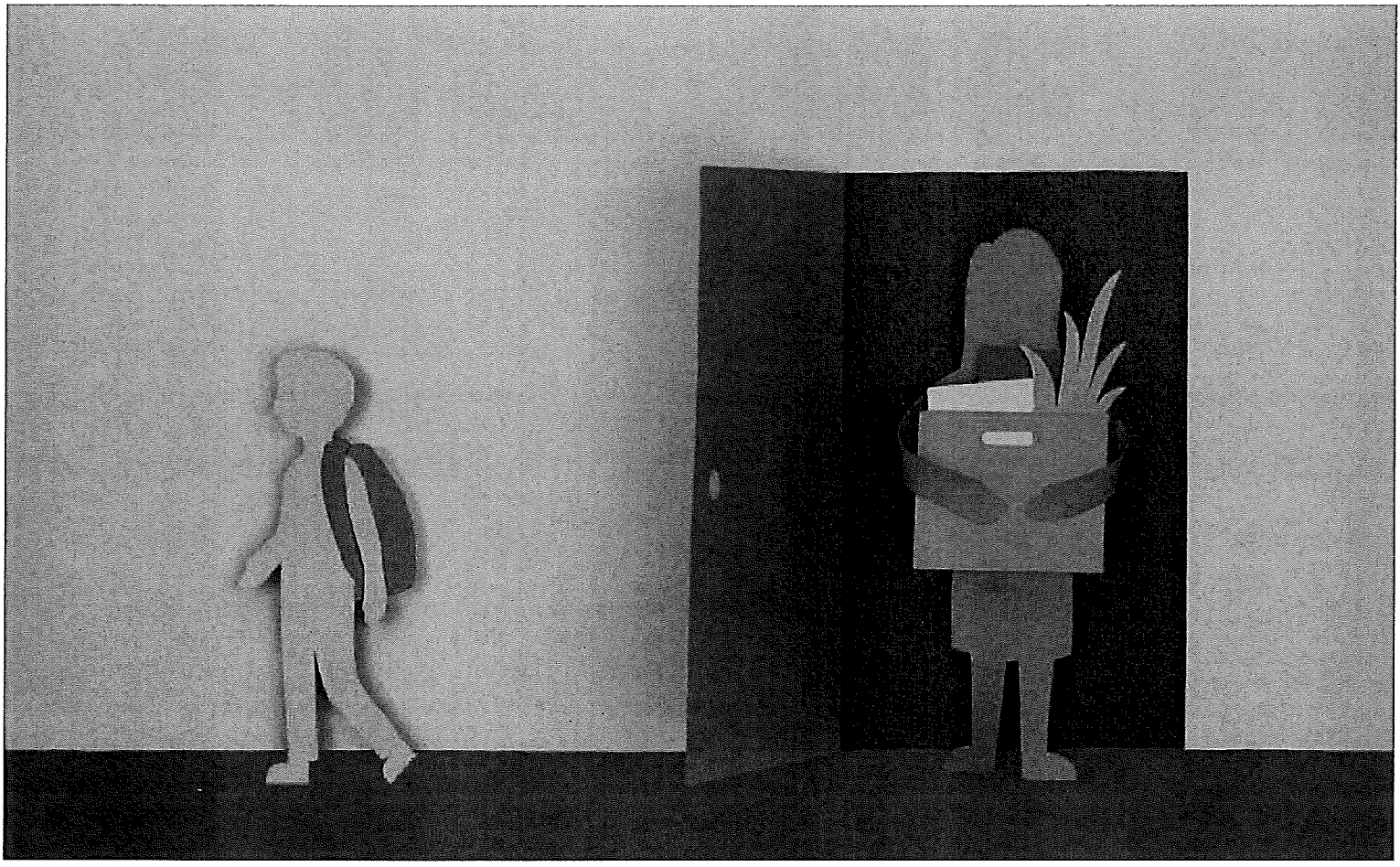
The typical prescription for teacher retention problems involves improving working conditions and raising salaries. As we will show, both are part of the solution to the real retention crisis in our schools. But doing these things and nothing more would boost retention of the weakest and strongest teachers alike, exacerbating problems posed by the lack of performance standards in today's teaching profession.

The solution is to *improve* retention, not to blindly increase it. Schools must retain more Irreplaceables while simultaneously raising expectations for teachers and retaining fewer of those who consistently perform poorly. This smarter approach to teacher retention could improve the quality of teaching at almost any school right away, and it has the potential to boost student learning substantially.[14] We believe it represents the best way—and possibly the only way—for low-performing schools nationwide to break their cycles of failure, and for the teaching profession to achieve the elite status it deserves.

Lamenting the low prestige of the teaching profession without addressing the low standards that perpetuate it will not solve the real retention crisis, nor will focusing on greater accountability for teachers without regard for the exceptionally challenging circumstances in which they work. These approaches have been repeated and debated for decades, enduring right along with the problem.

We believe the time has come for a more serious strategy. Teachers and education leaders at all levels need to embrace the more difficult, more complex work of demanding respect *and* rigor: better working conditions for teachers along with the higher performance standards worthy of the teaching profession.

The alternative is to continue standing by as Sarah and thousands of Irreplaceables like her leave the schools that need them most, even as many more low-performing teachers remain, dimming the life chances of students nationwide and eroding the reputation of the teaching profession.



"I love teaching at my school because the leadership is supportive. However, it also supports poor teaching."

– Irreplaceable Teacher

OUR MISUNDERSTANDING OF TEACHER TURNOVER

A full understanding of teacher retention requires more than a single number. We need to ask whether schools are keeping more of their best teachers than their worst.

OUR MISUNDERSTANDING OF TEACHER TURNOVER

Teacher turnover is one of the most discussed and least understood topics in education. Too often, public debate about it is startlingly simplistic and obscures the true issue. The problem begins with the way teacher retention is reported—almost always as a single number, the higher the better. However, an overall retention rate by itself tells us little, because it says nothing about which teachers are leaving and which ones are staying.

Consider one of the most influential reports about teacher retention: *No Dream Denied* (2003) from the National Commission on Teaching and America's Future (NCTAF).[15] Its authors pointed to high teacher turnover as a primary cause of poor school performance, noting that half of all new teachers leave the profession by their fifth year. The report called for an all-out effort to reduce new teacher attrition by 50 percent in three years.

No Dream Denied made a valuable contribution to the field by drawing attention to the number of early-career teachers who leave the profession. But it also made the assumption that any increase in teacher retention would be productive, no matter how well the teachers being retained actually performed. According to this logic, schools should work hard to keep ineffective teachers in the name of maximizing the overall retention rate.

This single-minded focus on raising overall teacher retention rates regardless of performance is as strong today as it was a decade ago—and just as incorrect. Such a simplistic view of retention reinforces the "widget effect," the widespread and flawed assumption that one teacher is about as good as any other.[16] It distorts the lessons of research and defies common sense.

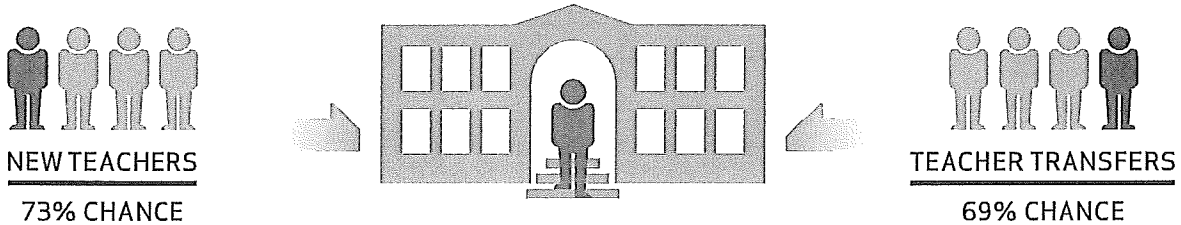
Everyone agrees that the loss of an incredible teacher is deplorable. But what if an *ineffective* teacher leaves the classroom and is replaced by someone more talented?

Our research shows that schools have a three in four chance of replacing a low-performing teacher with a new hire who will be more effective right away—and who is likely to improve over time, benefitting hundreds or even thousands of students over the course of his or her career.[17] This is true even in subjects like science, which can be difficult to staff *(Figure 7)*. In these cases, selective teacher attrition would likely yield a positive result for students.

It's true that excessive turnover can disrupt any workplace, and a recent study showed that very low teacher retention rates can negatively affect student achievement.[18] But to improve schools—especially struggling schools—education leaders need to ask a more complicated question than simply whether teacher retention rates are high. They need to ask whether schools are keeping more of their best teachers than their worst.

The loss of an incredible teacher is deplorable. But what if an *ineffective* teacher leaves and is replaced by someone more talented?

FIGURE 7 | LIKELIHOOD OF IMPROVING INSTRUCTION BY REPLACING A LOW-PERFORMING SCIENCE TEACHER IN DISTRICT C



NEW TEACHERS

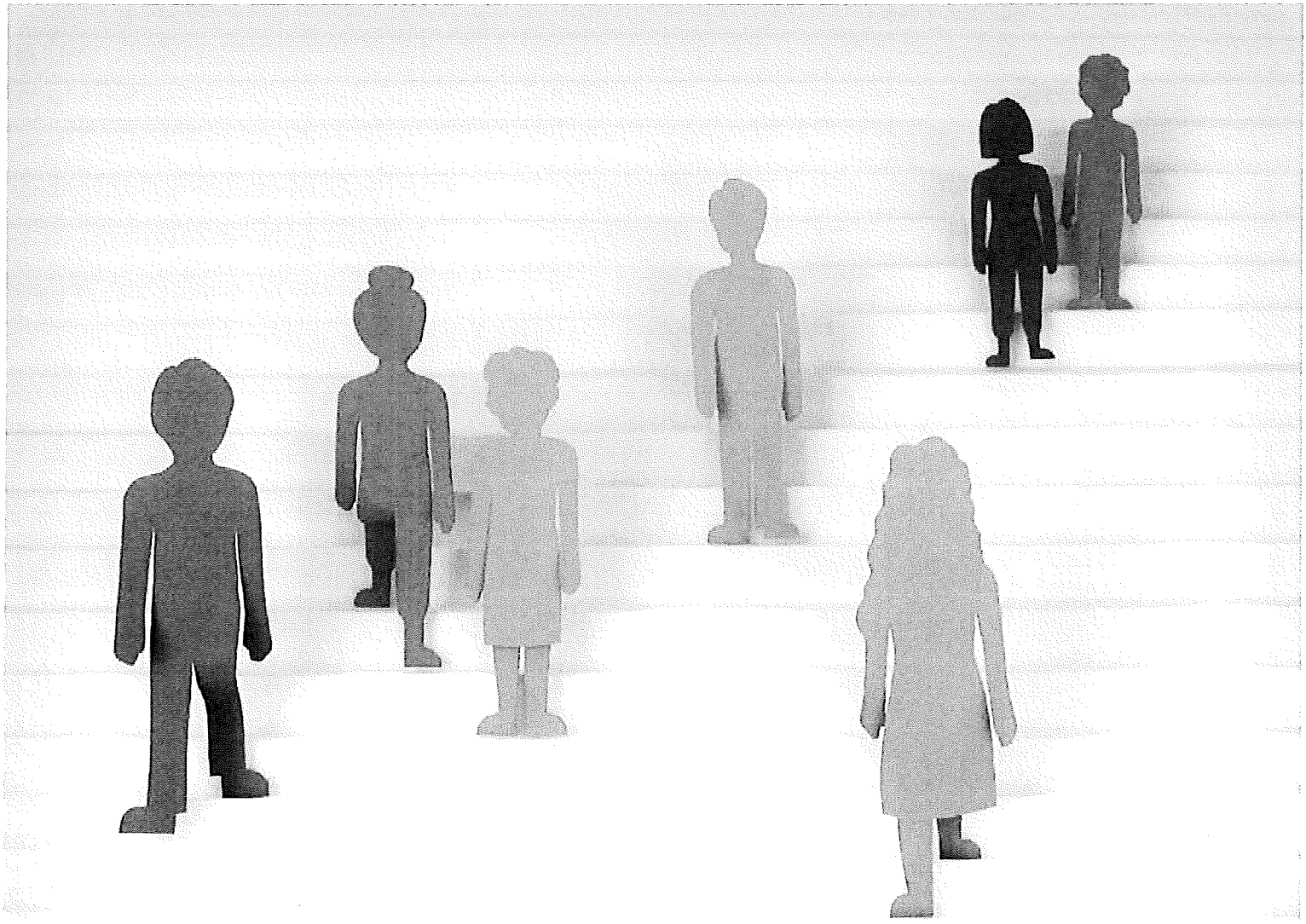
73% CHANCE
of getting a
better science teacher

TEACHER TRANSFERS

69% CHANCE
of getting a
better science teacher

When ineffective teachers leave, they are likely to be replaced by higher performing teachers—even in difficult-to-staff subjects.

Estimates based on teachers with value-added or growth data. Source: District C data from SY 2009-10.
Hard-to-staff subject trend confirmed across districts.



TWO DOMINANT FALLACIES ABOUT TEACHER PERFORMANCE

Two deeply rooted fallacies about teacher performance help explain why the misunderstanding of teacher retention persists.

First is the conviction that most low-performing teachers will improve to an acceptable level in the future. If struggling teachers can generally be expected to improve, there is less reason to treat them differently than Irreplaceables when it comes to retention. Principals could simply focus on retaining and developing all teachers.

Second is the assumption that new teachers will almost always be less effective than experienced teachers. If principals believe that a new teacher is unlikely to achieve better outcomes than a struggling but seasoned teacher, they will understandably be hesitant to invest time and energy in replacing one with the other.

Both assumptions encourage a simplistic and hands-off approach to teacher retention. But both assumptions are wrong.

Our analysis shows that, unfortunately, struggling teachers rarely improve—even when principals prioritize development. More than 70 percent of the principals we surveyed told us that "teacher development" was one of their top priorities—roughly twice the number that listed "retention" as a top priority.[19] Yet even three years later, the average experienced low performer in our study remained less effective than the average first-year teacher *(Figure 8)*.[20]

Contrary to the conventional wisdom that this lack of success causes poorly performing teachers to "self-select out," few leave on their own. About 75 percent of low performers remain at the same school from one year to the next.[21] Half say they plan to remain a teacher for at least another decade.[22]

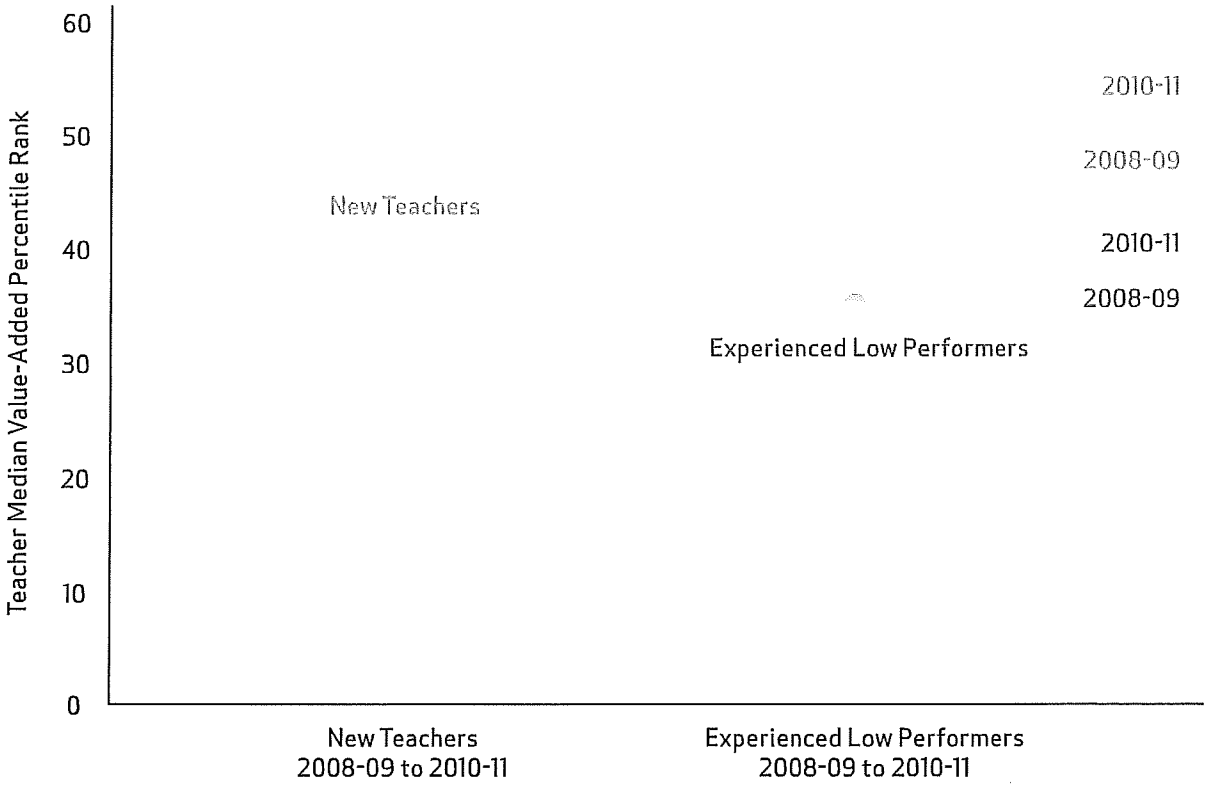
In most cases, even a brand-new teacher will be stronger. Three out of four times, new teachers perform better *in their first year* than the low-performing teachers they replace, and they are more likely to improve over time.[23] Even an average new teacher is likely to be a step up.

None of this means abandoning development as a strategy. In fact, the new emphasis on stronger teacher evaluation systems holds great promise for improving teacher development as well, because helping teachers improve is one of the main goals of any evaluation system. But schools could improve the quality of education they offer their students right away (and in the long term, too) through smarter retention, even as they work to improve teacher development.

The truth about these two widespread misconceptions raises an important question: When a teacher is not performing as well as a brand-new teacher and shows no signs of improving, what should happen next? Replacing a teacher who struggles to help students learn can be an uncomfortable decision, but the alternative is far riskier. Doing nothing —the choice most principals make—usually guarantees that a low-performing teacher will teach dozens or even hundreds more children, and never improve.

Contrary to the conventional wisdom, poorly performing teachers rarely "self-select out."

FIGURE 8 | PERFORMANCE COMPARISON OF NEW TEACHERS AND EXPERIENCED LOW PERFORMERS OVER THREE YEARS



Low performers rarely improve significantly.
Even three years later, most perform worse than the average first-year teacher.

Median percentile ranks by population scores; Populations defined in SY 2007-08. Source: District C data from SY 2007-08 through SY 2010-11. Trends confirmed across districts.

"The teaching profession is viewed as a job anyone could do. We don't have high enough respect for ourselves and our own talents."

—Irreplaceable Teacher

EXPLORING THE REAL TEACHER RETENTION CRISIS

Most schools take an approach to teacher retention that neglects Irreplaceables and allows unsuccessful teachers to stay indefinitely. Principals have tools to retain their best teachers and counsel out their lowest performers, but they rarely use them.

More than 75 percent of Irreplaceables said they would have stayed at their current school if their main issue for leaving were addressed.

EXPLORING THE REAL TEACHER RETENTION CRISIS

The nation's urban school districts are losing their most and least successful teachers at strikingly similar rates. In the four districts we studied, 6 to 17 percent of Irreplaceables left their district at the end of each school year, compared with 6 to 21 percent of low performers.[24] Instead of improving the quality of instruction they offer their students by increasing the proportion of great teachers and decreasing the proportion of struggling teachers, our schools are running in place. This is the real teacher retention crisis.

Based on these trends, we estimate that approximately 10,000 Irreplaceables leave the 50 largest school districts across the country each year. Many of these teachers are just starting their careers: In one typical district we studied, nearly one-third of all Irreplaceables left within two years, and almost half left within five years *(Figure 9)*.

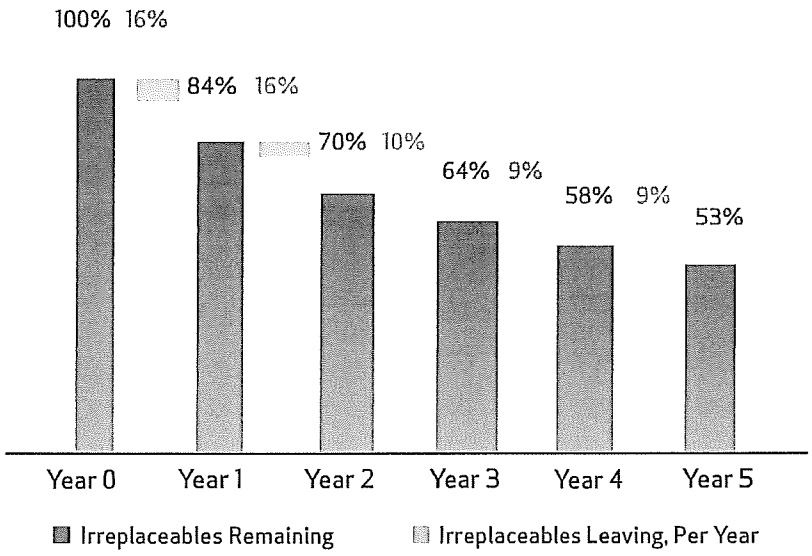
At the same time, close to 100,000 low performers stay, helping to create a situation where 40 percent of teachers with more than seven years of experience were not even as effective as an average brand-new teacher.[25] Millions of students learn from less effective teachers as a result, and struggling schools become locked in a cycle of failure that prevents them from ever having enough effective teachers to help their students succeed.

It's not inevitable. Our findings suggest that Irreplaceables usually leave for reasons that their school could have controlled. Less than 30 percent of those who planned to leave in the next three years said they were doing so primarily for personal reasons.[26] More than half said they planned either to continue teaching at a nearby school or continue working in K-12 education.[27] And more than 75 percent said they would have stayed at their school if their main issue for leaving were addressed.[28]

This situation would be unfathomable in almost any other profession where individual performance matters. Imagine if star quarterbacks routinely left pro-football teams and those teams made no effort to convince them to stay, only to backfill their places with less capable players, leading to prolonged losing streaks. Fans would be enraged, and the coach and general manager would almost certainly be shown the door. Yet a similar scene plays out every year in schools across the country, where the stakes for students and their families are much higher than points on a scoreboard.

Schools clearly cannot expect to retain all of their best teachers and *none* of their lowest performers. But they should be able to keep a much higher percentage of Irreplaceables than low performers. Yet this is not happening in most schools today. Why not?

FIGURE 9 | HIGH-PERFORMING TEACHER ATTRITION AND CUMULATIVE RETENTION IN DISTRICT D, IN FIRST FIVE YEARS OF CAREER



We lose too many Irreplaceables, especially early in their careers.

Single-year district attrition estimates based on years of seniority; cumulative district attrition estimates calculated following the methodology of Ingersoll (2003). Source: District D data from SY 2009-10 through SY 2010-11. Cumulative attrition trend confirmed across districts.

THE CAUSES

These destructive retention patterns occur mainly because leaders at all levels let them happen. Principals don't try particularly hard to keep their Irreplaceables, nor do they make a special effort to counsel out or dismiss low-performing teachers—even though those teachers rarely improve. Instead, they seem content to keep whichever teachers are willing to stay and lose whichever teachers decide to leave, regardless of skill.

And why should they act any differently? District administrators generally do not prioritize or hold principals accountable for smarter retention decisions. And as has been well documented by TNTP and others, an array of policies—from compensation systems that pay the least effective teachers more than the most effective, to layoff rules that make it illegal to keep Irreplaceables during tough economic times—stand ready to undermine efforts to build stronger instructional teams.

In short, the real retention crisis is fueled by an unspoken consensus that schools are not obligated to be strategic about the teachers they keep. The primary retention strategy in most schools is not having a strategy at all.

On the following pages, we discuss the primary causes and consequences of the crisis.

"Positive, effective communication between teachers and administration is lacking. Performance feedback is missing. For example, my principal never once visited my classroom during the entire school year to see how effective I really am with my students."

-Irreplaceable Teacher

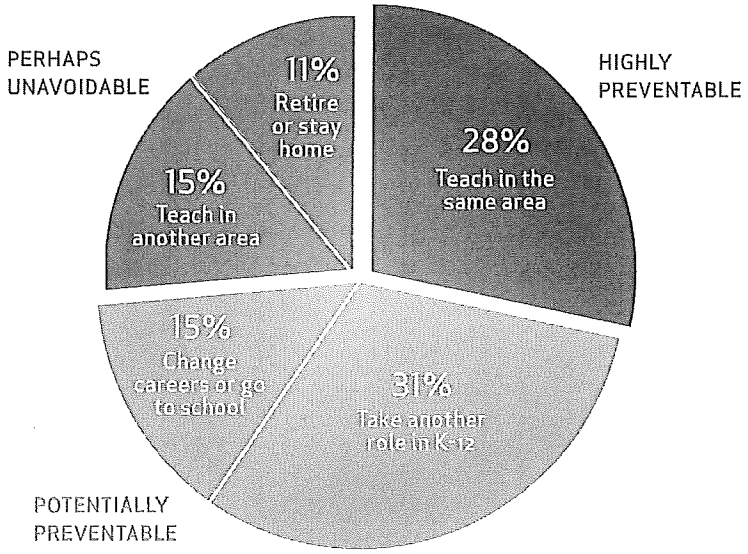
CAUSE 1:

Principals make far too little effort to retain Irreplaceables or remove low-performing teachers.

Conventional wisdom says that most teacher attrition is beyond the control of schools, especially those in poor communities. The assumption is that teachers leave because of major life events—starting a family, for example—or due to working conditions that school leaders cannot address on their own, such as low pay or inadequate preparation.

Many of these factors play a role and need to be addressed. But on balance, we found that the conventional wisdom is wrong. Less than 30 percent of Irreplaceables who plan to leave their school do so for personal reasons beyond their school's control, and principals hold significant sway over the decisions of the other 70 percent.[29] (*Figure 10* illustrates the future plans of Irreplaceables who intend to leave in one district we studied. Here and throughout the report, results we present from individual districts are representative of results from other districts we studied unless otherwise noted.)

FIGURE 10 | NEXT STEPS FOR HIGH PERFORMERS LEAVING THEIR SCHOOL IN DISTRICT A, 2010-11



3 in 4 high-performing teachers with plans to leave their schools say they would stay if their top reason for leaving improved.

Population includes high performers only.
Source: District A data and survey data. Trends confirmed across districts.

FIGURE 11 | LOW-COST RETENTION STRATEGIES FOR IRREPLACEABLES

FEEDBACK & DEVELOPMENT	1. Provided me with regular, positive feedback 2. Helped me identify areas of development 3. Gave me critical feedback about my performance informally
RECOGNITION	4. Recognized my accomplishments publicly 5. Informed me that I am high-performing
RESPONSIBILITY & ADVANCEMENT	6. Identified opportunities or paths for teacher leader roles 7. Put me in charge of something important
RESOURCES	8. Provided me with access to additional resources for my classroom

Top teachers who experience two or more of these retention strategies plan to keep teaching at their schools for nearly twice as long (2-6 more years).

Low-cost retention strategies defined as those that influence planned school retention of Irreplaceables. Source: District and survey data.

We identified eight strategies that helped boost teacher retention at the schools we studied *(Figure 11)*. These are strategies most school leaders could start implementing tomorrow, without any changes in policies, contracts or laws, and at little or no cost. They work regardless of the working conditions or academic success of a school.[30]

Irreplaceables who experienced two (or more) of these strategies planned to remain at their schools up to *six years longer* than those who didn't.[31] Even so, one-third to half of the Irreplaceables we surveyed said they had actually experienced *fewer* than two of these retention strategies.[32] About a quarter said they had experienced none at all.[33]

It is difficult to overstate the disconnect between the contributions of these teachers and the treatment they receive. These teachers consistently help students achieve life-changing results, yet most of them never receive positive feedback or public recognition from their school.[34] Two-thirds of Irreplaceables told us that nobody even bothered to encourage them to return for another year.[35]

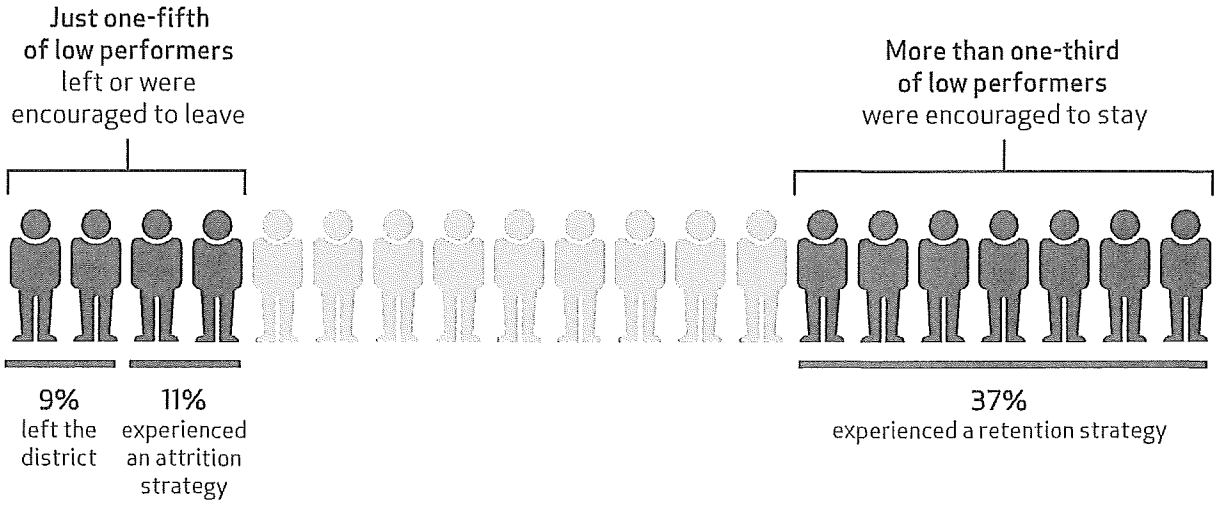
This negligent approach to retention extends to low-performing teachers, too. Principals rarely counsel these teachers out, pursue formal dismissal, or even tell them that they are low performing, despite the fact that they rarely improve. In fact, two out of three low-performing teachers believe they are above-average or even exceptional at their jobs.[36]

Our research indicates that principals are capable of ushering low performers out simply by being candid with them about their performance and fit in the school. In one district, teachers whose principals encouraged them to leave—by informing them they are low performing, explicitly suggesting that they leave, or giving them a low performance evaluation rating—were nearly three times more likely to plan to leave.[37] Yet just one-fifth of current low performers in that district left or told us they had experienced an attrition strategy in the last year *(Figure 12)*.

On the rare occasions when principals take a more active role in teacher retention, they tend to take a blanket approach that encourages as many low performers to stay as Irreplaceables. Low-performing teachers experienced seven of the eight retention strategies we identified about as often as Irreplaceables.[38] They were even as likely to be offered teacher leadership roles.[39]

With such an indiscriminate approach to retention, principals miss countless opportunities to improve the quality of teaching in their schools. They could hold on to more Irreplaceables simply by trying to do so. More low-performing teachers would leave if principals stopped encouraging them to stay and started nudging them in the opposite direction. A little effort could make a big difference—but most principals are hardly trying.

FIGURE 12 | ATTRITION ENCOURAGEMENT AMONG LOW-PERFORMING TEACHERS IN DISTRICT D, 2010-11



When teachers were encouraged to leave, they were almost three times as likely to plan to leave at the end of the year as those who were not.

Population includes low performers only. Low performer population who responded to retention strategies question was assumed to be representative of all low performers. Source: District D data and survey data.

CAUSE 2:
Poor school cultures and working conditions drive away great teachers.

The strategies listed in *Figure 11* can help any school retain more Irreplaceables, but creating a professional environment where the best teachers are excited to work makes a big difference.

In the course of our research, we found similar cultures at schools that retained high percentages of their Irreplaceables. In particular, principals at these schools were more likely to clearly communicate high expectations to teachers and ensure that teachers feel supported, and less likely to tolerate ineffective teaching.[40] In short, these principals were able to create strong instructional cultures—where teachers work in an atmosphere of mutual respect and trust, where school leaders take action with teachers who perform poorly, and where great teaching is the top priority *(Figure 13)*.

Principals who fail to build this kind of culture find it much more difficult to retain their best teachers. In the districts we studied, turnover rates among Irreplaceables were 50 percent higher in schools with weak instructional cultures than in those with strong cultures.[41]

Culture and working conditions are especially large problems at struggling schools.[42] Teachers at low-achieving schools are much less satisfied with working conditions than their colleagues at high-achieving schools. Only 32 to 45 percent of teachers at low-achieving schools said that their school was "a good place to teach and learn," compared with 70 to 82 percent of teachers at high-achieving schools *(Figure 14)*.

Teachers at low-achieving schools are also less satisfied with parent involvement, student conduct, school safety and school location.[43] They are less satisfied with the quality of their school leaders and colleagues.[44] Not surprisingly, teachers at these schools generally plan to stay about two and a half fewer years than teachers at high-proficiency schools.[45]

Although the primary responsibility for building and nurturing school culture rests with individual principals, district leaders play an important role too. For example, they can survey teachers and students regularly to ensure that principals have regular, actionable information about the gaps in their schools' culture and working conditions.

Retaining as many Irreplaceables as possible requires a shared commitment from school and district leaders to address working conditions that can drive great teachers away.

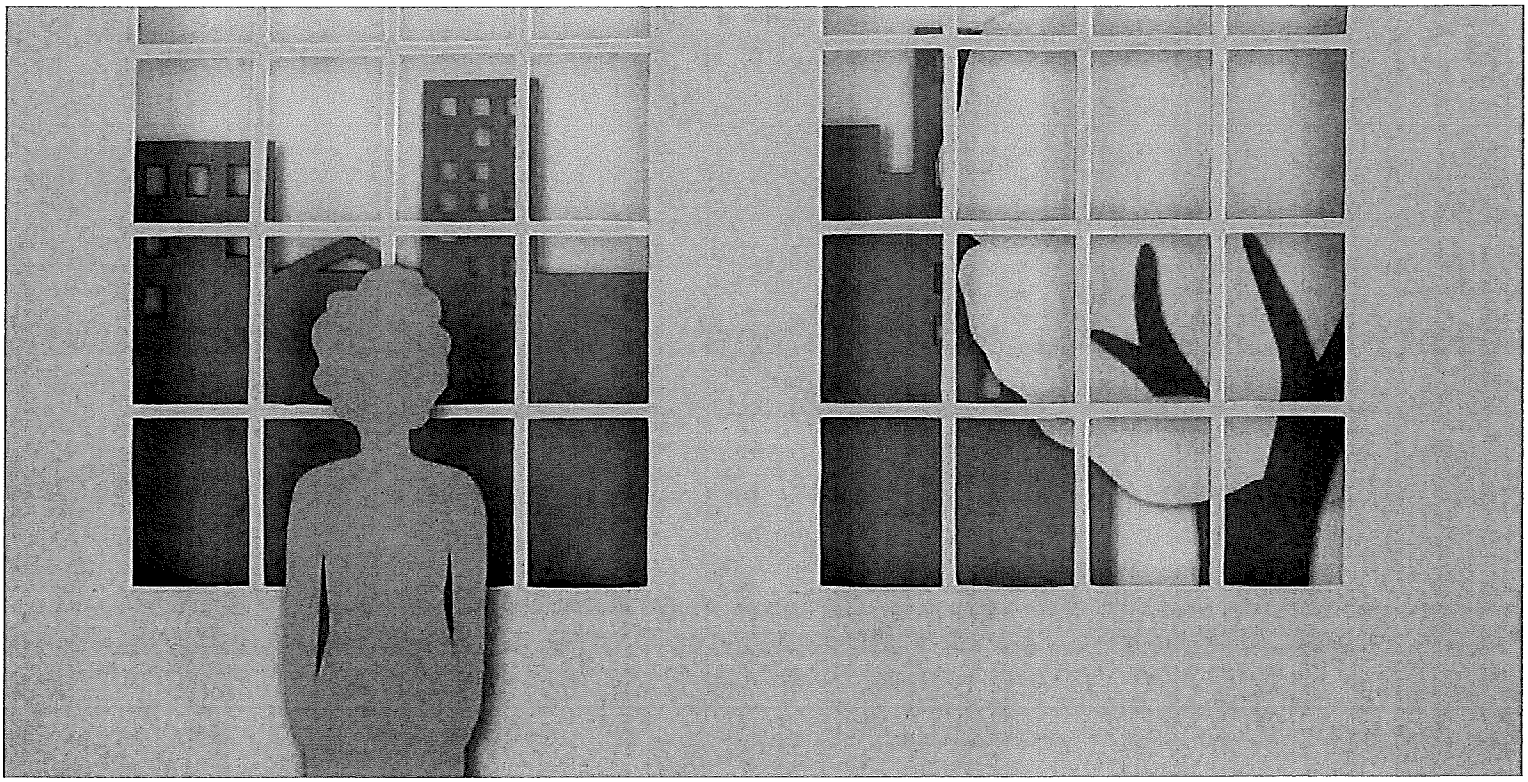
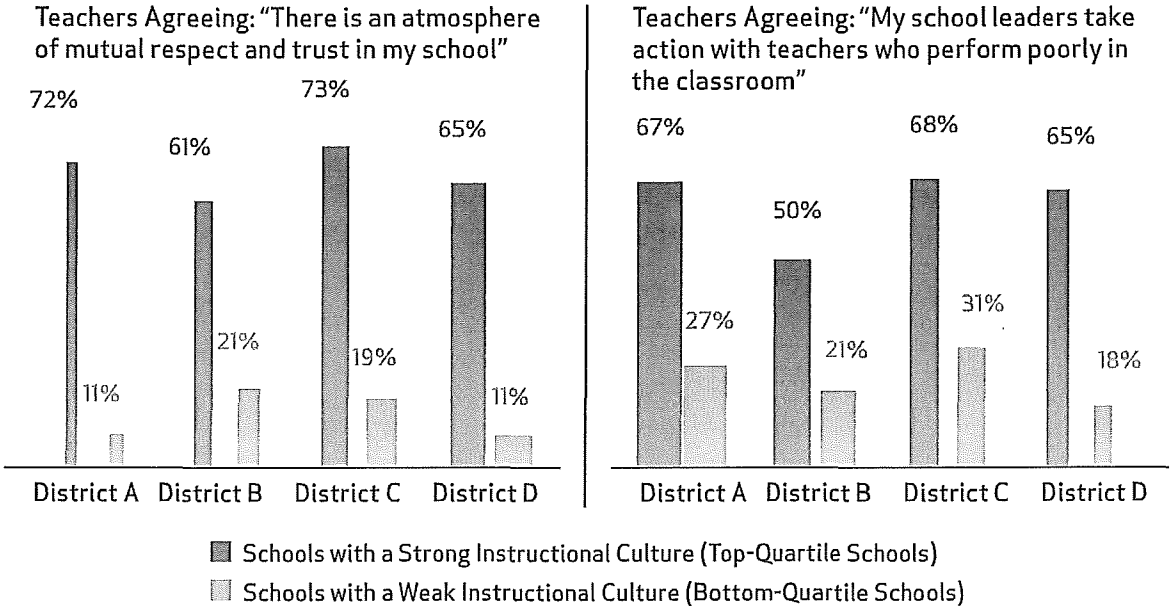


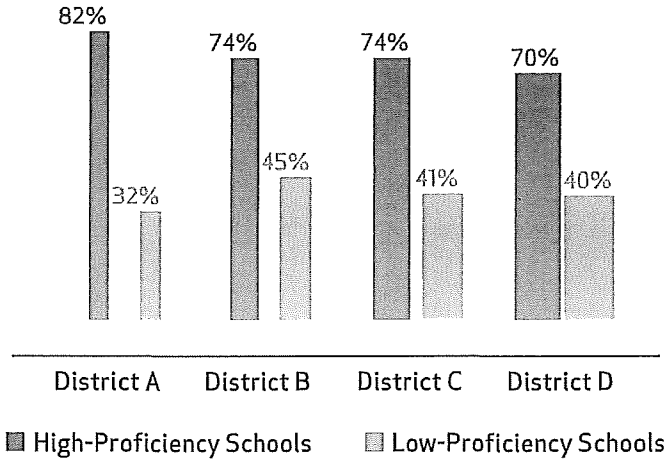
FIGURE 13 | TEACHERS AGREEING WITH STATEMENTS ON THEIR SCHOOL'S CULTURE



Turnover rates among Irreplaceables were 50 percent higher in schools with weak instructional cultures.

Instructional culture identified by a campus index created from teacher responses to the following three survey questions: "My school is committed to improving my instructional practice," "Teachers at my school share a common vision of what effective teaching looks like," and "The expectations for effective teaching are clearly defined at my school." Only includes schools meeting a minimum survey response rate. Source: District and survey data.

FIGURE 14 | TEACHERS AGREEING: "MY SCHOOL IS A GOOD PLACE TO TEACH AND LEARN"



Culture and working conditions are especially large problems at struggling schools.

Responses compared for teachers at schools in highest school-level math proficiency quintile and teachers at schools in lowest school-level math proficiency quintile. Source: District and survey data.

CAUSE 3:

Policies give principals and district leaders few incentives to change their ways.

If principals can improve their schools just by making smarter retention decisions, why don't they?

In most districts, managing teacher retention is simply not considered a priority for principals.[46] None of the districts we studied recruit, train or evaluate principals based on their willingness and ability to make smart decisions about teacher retention based on performance.[47] Most don't even track separate retention rates for Irreplaceables and low performers.

It's unrealistic to hope principals will do something they weren't hired, aren't required, and receive little support to do. Indeed, only 35 percent of principals agree that district policies support their efforts to keep effective teachers.[48] About the same number believe they have the necessary flexibility to ensure that their most effective teachers are retained.[49]

The few principals who focus on smart retention decisions despite these conditions encounter outdated policies—well-documented by TNTP and others—that stymie their efforts and encourage indifference to teacher performance.[50]

Should we be surprised that school and district leaders aren't eager to bang their heads against this wall? A passive, indiscriminate approach to teacher retention is a rational response to policies that encourage exactly that.

Removing the policy roadblocks to smart retention strategies will not, by itself, solve the retention crisis. In fact, we found that most principals continue their hands-off approach to retention even after policy barriers disappear.[51] But as long as the policy landscape promotes negligent retention, and until district leaders require principals to make retention a priority, we can't expect to see much progress.

"Removal of ineffective teachers is a difficult and mostly unsuccessful process."

-Principal

POLICY BARRIERS TO SMART RETENTION

Principals in most districts face a number of policy barriers that discourage or even prevent them from making smarter retention decisions.

Meaningless evaluation systems

As we documented in our 2009 study, *The Widget Effect*, teacher evaluation systems in many districts rate nearly all teachers "good" or "great" and provide little insight into any individual teacher's success in the classroom, making it difficult to identify Irreplaceables or low-performing teachers in the first place.[52] Since then, several states and districts have built better, more rigorous evaluation systems, and many others have promised to do so. But at this point, the principal of a typical urban school still can't count on the formal evaluation process to be of much help.

Lockstep compensation systems

Principals can do many things to persuade Irreplaceables to stay, but they can rarely try one of the most obvious tactics: offering a raise. That's because most school districts use a single predefined salary schedule that is hard-wired to undervalue great teaching. These systems award raises based solely on seniority and degrees, without regard to performance[53]—meaning that the only way many Irreplaceables can earn a substantial raise is by leaving. Many do just that. In two of the districts we studied, Irreplaceables were more than twice as likely as low performers to cite dissatisfaction with compensation as a reason for leaving.[54]

In the districts we studied, compensation systems were especially demeaning to teachers who excel early in their careers, yet often earn far less than many of their low-performing colleagues.[55] In all, about 55 percent of Irreplaceables in the districts we studied earn lower salaries than the average ineffective teacher.[56] Teachers in this situation must wait 20 years or more to reach the top of the salary scale, while they watch low-performing colleagues get rewarded year after year.[57]

Lack of career pathways

For most Irreplaceables, a promotion is as unlikely as a raise, unless they leave the classroom. Fewer than 30 percent of Irreplaceables told us that their schools had identified opportunities for them to serve as teacher leaders, because such positions were offered just as often to lower-performing teachers or didn't exist at all.[58] In most districts, the only way up the career ladder is to become an administrator—which comes with a higher salary, but fewer opportunities to teach students.

Not surprisingly, in two districts we studied, Irreplaceables were also more likely than low performers to cite dissatisfaction with career advancement opportunities as a reason for leaving.[59]

Quality-blind layoff rules

Principals who convince their Irreplaceables to stay might be forced to fire them anyway if layoffs become necessary, since most districts rely on quality-blind rules to decide which teachers to keep during layoffs. Under these policies, schools must base layoff decisions on seniority alone, meaning that Irreplaceables can be laid off even as their lower-performing colleagues remain. Quality-blind rules lead to more layoffs overall, erode instructional quality and hurt schools in high-need communities the most, yet they persist in most states and districts across the country. Many states have codified quality-blind rules in legislation, actually making it *illegal* for schools to keep early-career Irreplaceables during tough economic times. There's no clearer example of a policy that treats Irreplaceables as expendable.[60]

Forced placement staffing policies

Staffing rules in many districts make principals think twice about replacing any low-performing teacher. That's because many districts still allow teachers to be force-placed into open positions in schools, a process that disrespects teachers and has a chilling effect on principals' efforts to build strong instructional teams.[61] If you knew that your attempts to hire, develop and retain high-performing teachers could be undone at any moment, why would you bother? And why take the risk that the teacher force-placed into the vacancy left by a low performer could be even less effective, or a bad match for the school?

Onerous dismissal rules

As a practical matter, it is tremendously difficult for most principals to formally dismiss a tenured teacher for poor performance. The onerous dismissal rules in place in most school districts have been well-documented; they require mountains of paperwork, months of hearings and hundreds of hours of a principal's time to dismiss a single teacher—with no guarantee that the district will back the request or that the teacher will actually be fired even if the principal diligently follows every step of the process.[62]

About 55 percent of Irreplaceables earn lower salaries than the average *ineffective* teacher.

CONSEQUENCES

Negligent retention has immediate and devastating effects on individual students who are deprived of potentially life-changing teachers. It also hurts entire schools—especially low-performing schools, which have little hope of improving until they start making smarter retention decisions. Decades of research have proven that no school factor has a greater impact on student achievement than the effectiveness of the teacher at the front of each classroom.[63] Sustainable improvement will be possible only when struggling schools keep more of their best teachers and fewer of their lowest performers.

But the consequences extend far beyond students and schools. The neglect of Irreplaceables is just one glaring symptom of a wider problem: a profession that has become one of low performance standards and the lack of respect that accompanies them.

Most struggling schools won't ever have as many high-performing teachers as other schools without making smart retention a top priority.

CONSEQUENCE 1:
School Turnaround Is Nearly Impossible.

Current retention patterns lock our lowest-achieving schools into a cycle of failure, because they have proportionally fewer Irreplaceables and more low-performing teachers to begin with. In the four districts we studied, schools with the lowest student proficiency rates had half as many Irreplaceables and one and a half times the share of low-performing teachers as high-proficiency schools.[64]

Consider a cluster of 10 low-achieving schools in the districts we studied. Only 12 percent of these schools' teachers were Irreplaceables, while 19 percent were low performers.[65] At schools with average student proficiency levels, the pattern is reversed: 18 percent of teachers are Irreplaceables and 14 percent are low performers.[66]

To build even an *average* faculty, these 10 schools would collectively need to counsel out one-third of their low performers and keep nearly all their Irreplaceables every year, for four years in a row. But right now, the schools keep all their teachers at roughly the same rates (losing about 14 percent of all teachers annually). The quality of instruction will remain well below average unless principals and district leaders focus on keeping more Irreplaceables and fewer low performers *(Figure 15)*.

Put simply, most struggling schools won't ever have as many high-performing teachers as other schools—and are unlikely to improve significantly—without making smart retention a top priority. Negligent retention creates permanent inequity.

FIGURE 15 | SIMULATED TEACHER RETENTION PATTERNS IN 10 LOW-PERFORMING SCHOOLS, EACH WITH 20 TEACHERS

NEGLIGENT RETENTION		200 Teachers Start Year 1	YEAR 1	YEAR 2	YEAR 3	YEAR 4	200 Teachers End Year 4 *Includes New Hires*
14% Low Performers Leave	Low Performers	38	5 leave	5 leave	5 leave	5 leave	34
14% High Performers Leave	High Performers	24	3 leave	4 leave	4 leave	4 leave	25
SMART RETENTION							
33% Low Performers Leave	Low Performers	38	13 leave	10 leave	7 leave	7 leave	17
4% High Performers Leave	High Performers	24	1 leaves	1 leaves	1 leaves	1 leaves	36

By changing which teachers leave, low-performing schools can reach an average teacher composition in a few years.

Number of total teachers is 200. Starting composition is 24 high performers, 138 mid performers, and 38 low performers. Ending composition for negligent retention is 25 high performers, 141 mid performers, and 34 low performers. Ending composition for smart retention is 36 high performers, 147 mid performers, and 17 low performers. Analysis only includes schools with a minimum of 7 teachers with value-added or growth data in each year. Composition data based on an average of 3 years; attrition and pipeline data based on an average of 2 years. Models using the teacher composition at low- and mid-proficiency schools, defined by school-level math proficiency quintile. Model does not assume any fluctuation in teacher populations at schools and assumes population of teachers with performance data reflects the effectiveness of all teachers at these schools. Overall attrition and incoming pipeline rate held steady each year. Source: District D data from SY 2007-08 through SY 2009-10.

CASE STUDY: A CULTURE OF HIGH PERFORMANCE EXPECTATIONS

Few schools currently practice smart teacher retention, but we found several that show it is possible. For example, the majority of schools in one high-performing charter management organization we studied achieved smart teacher retention patterns.[67] Together, these schools retained 75 percent of high performers and no more than 35 percent of low-performing teachers.[68]

These schools set high expectations for teachers. Compared with teachers we surveyed in the four other urban districts that we studied, teachers at these schools were much more likely to report that evaluation ratings carried positive and negative consequences, and that school leaders took action with low-performing teachers.[69] **More than 70 percent of the teachers at these schools told us that their school did not tolerate poor performance, compared to only 38 to 47 percent in the urban districts we studied.**[70]

In particular, these schools set a clear expectation that low-performing teachers could not remain on the job unless they improved quickly. Principals told us that they expected low-performing teachers to become effective within one school year, whereas other principals we surveyed often told us that teachers should have two or three years to improve—or longer.[71]

Yet this focus on high standards did not make teachers unhappy. **In fact, almost 90 percent of teachers at these schools said they were satisfied with their work environment, compared to 55 to 62 percent of teachers in the urban districts we studied.**[72]

CONSEQUENCE 2:
The Teaching Profession Is Degraded.

Beyond the academic consequences, the hands-off approach to retention degrades the teaching profession. It sends the dangerous message that great teachers are expendable, and it devalues real achievement. In the districts we studied, for example, nearly identical percentages of Irreplaceables and low-performing teachers told us their school had recognized their accomplishments publicly.[73] Praise handed out without regard to performance loses much of its meaning, and might even ring hollow to truly outstanding teachers.

The fact that indiscriminate retention policies allow many low performers to remain on the job has not gone unnoticed by anyone, including teachers. Fewer than half of the teachers we surveyed believed that their schools had a low tolerance for ineffective teaching.[74]

Teaching is an extremely difficult job, and teaching in a high-need school is even tougher. Anyone who signs up for such demanding work deserves enormous respect. But our analysis and decades of research have shown that good intentions cannot substitute for good performance. Most of the low-performing teachers we studied report working quite hard—but they are not helping their students learn as much as they need to learn.

Telling someone that their best is not good enough is never easy, but a willingness to do it is the hallmark of a true professional. Teachers deserve to be valued for their skill, not their intentions. Tolerating poor performance keeps ineffective teachers in the classroom indefinitely and sends a devastating message to outstanding teachers. Most importantly, it hurts the reputation of the entire profession, allowing it to be defined by mediocrity rather than excellence.

"Poor teachers are not called out on their lack of preparation, which greatly affects everyone else."

-Irreplaceable Teacher

Because leaders at every level helped create the real retention crisis, they all have an opportunity—and a responsibility—to help solve it.

TIME TO END A SAD TRADITION OF NEGLECT

Everyone who leads or sets policy for schools has helped create the real retention crisis. The unfortunate truth is that Irreplaceables have had no champion protecting their interests.

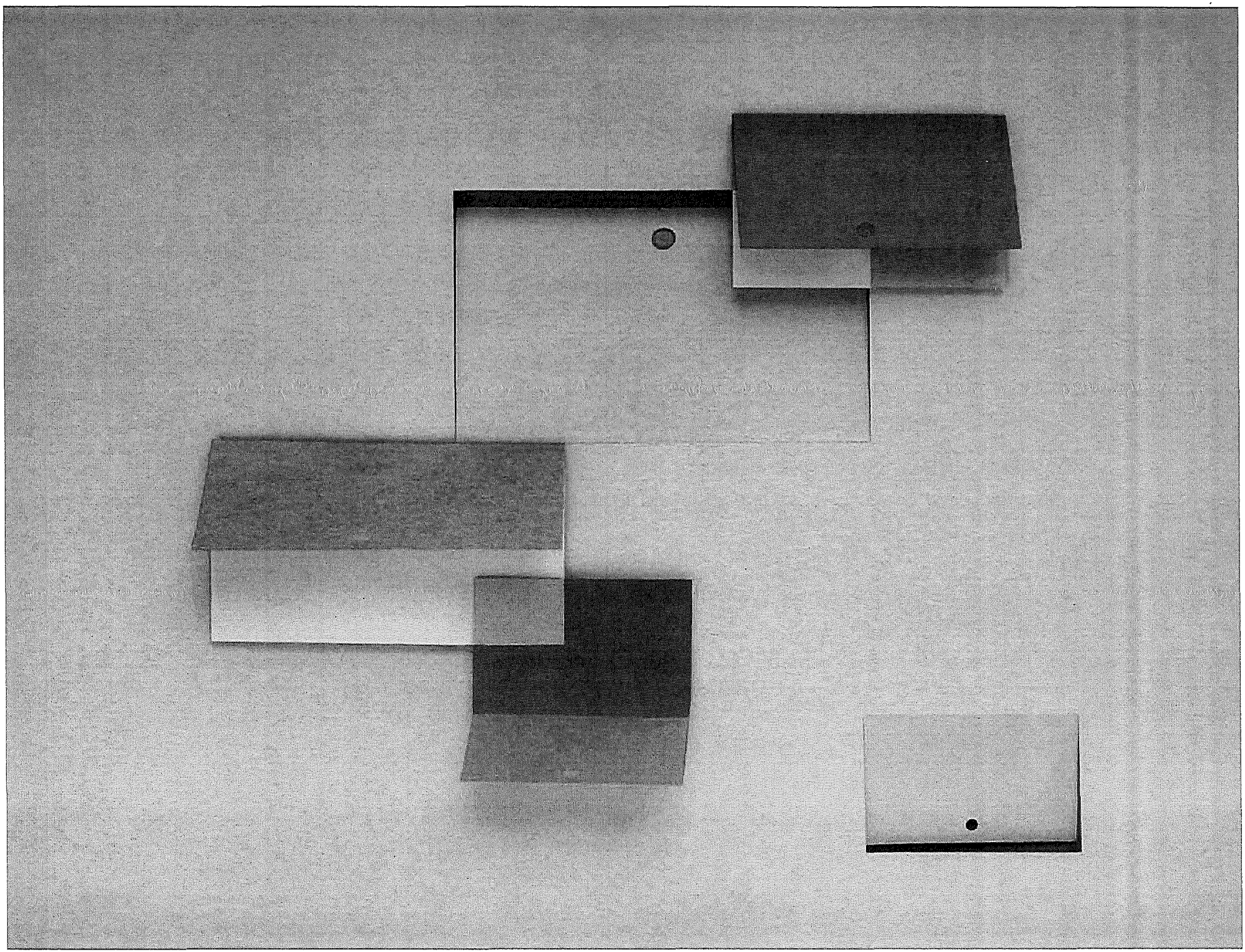
Teachers' unions often lead the charge for better working conditions and pay. But they also tend to support policies that encourage or require principals to keep teachers regardless of their success in the classroom—perhaps understandably, because a union's charge is to protect the jobs of *all* its members, not just the jobs of its most skilled members. The price of such policies is the diminishment of the profession.

It takes two parties to agree to a contract and many votes to pass a law, so superintendents, school boards and legislators share the responsibility when they accept and fail to challenge these counterproductive policies.

Furthermore, district leaders often do little to address the poor working conditions and management practices that drive great teachers from the classroom. Principals are not trained or expected to create school cultures that attract the best teachers, or to take even simple steps to improve retention patterns within the current policy environment. And as we've seen, they rarely make such an effort on their own.

Teachers themselves bear the least responsibility for this crisis. It is not a great teacher's responsibility to remain at a school that fails to value great teaching. Nor is it the fault of any teacher that education leaders have set the bar for acceptable performance far too low, for far too long. The surprise is that so many strong teachers have been willing to remain in schools that appear completely indifferent to their contributions, and that they have not demanded change.

It is time to adopt a new strategy on teacher retention. Because leaders at every level helped create the real retention crisis, they all have an opportunity—and a responsibility—to help solve it.



"If we set high expectations that everyone would follow then I would love to remain at my job."

–Irreplaceable Teacher

RECOMMENDATIONS: SMART RETENTION

Solving the real teacher retention crisis requires a new approach that revolves around smart retention: keeping more Irreplaceables and fewer low-performing teachers.

RECOMMENDATIONS: SMART RETENTION

In 3 out of the 4 districts we studied, retention rates were higher at schools where teachers reported a low tolerance for poor performance.

Schools that practice smart retention improve the quality of their instructional teams. They increase their concentration of top teachers and decrease their concentration of low performers, often without raising their overall turnover rate. These changes have the potential to boost student learning dramatically, yet only around 1 in 10 of the schools we studied practiced smart retention for three years in a row.[75]

How can we break the destructive retention trends that have held urban schools back for decades?

As we have shown, it starts with simple steps that any principal can take right away. Principals need to use evaluation results and other performance information to make smarter, more deliberate decisions about the teachers they hire, develop and retain—and they need to see this as one of the most important parts of their job. District leaders need to support principals in making those choices and hold them accountable for making the right ones.

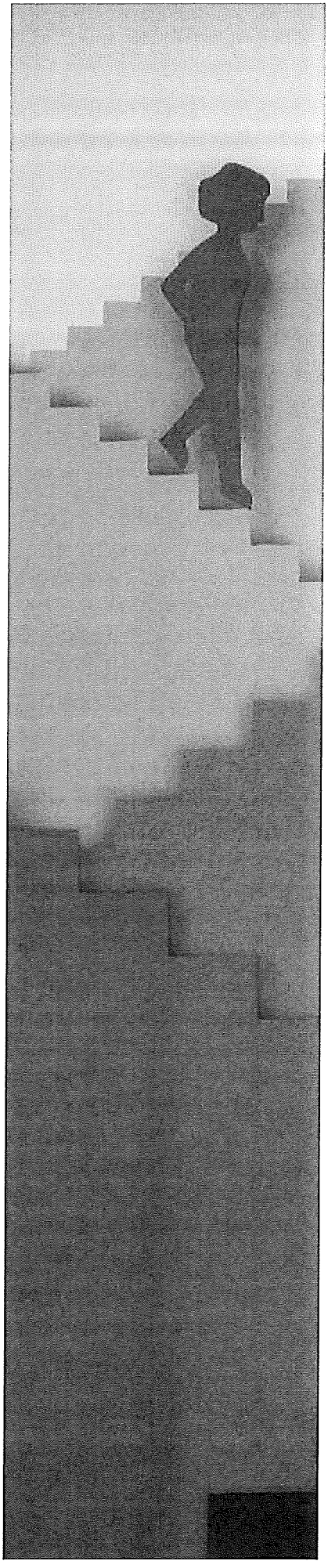
But principals alone cannot solve the more fundamental problem that created the crisis in the first place: an industry that has become largely indifferent to performance. Addressing this problem requires a concerted effort at all levels to rebuild the teaching profession around its top practitioners. That means setting clearer standards for good teaching and dismantling policies that disregard classroom performance. It also means acknowledging and responding to some hard truths: that some people may never become effective teachers, no matter how hard they try, and that decades of indifference have allowed too many low-performing teachers to remain in the profession despite a lack of success.

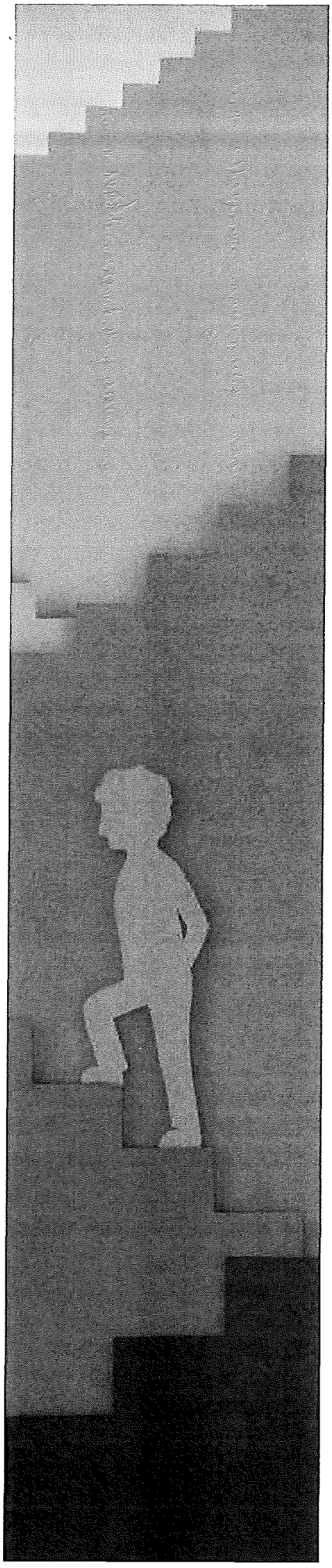
Neither the teaching profession nor our schools can move forward without these changes. Some will protest that the opposite is true—that higher standards will drive teachers away, and that removing any teachers will alienate all teachers. In fact, our past research suggests that it's actually the failure to recognize great teaching and enforce high expectations that weakens a school's instructional culture.[76] In three out of the four districts we studied, retention rates were higher at schools where teachers reported a low tolerance for poor performance.[77] And Irreplaceables who believe their colleagues are mostly effective told us they would remain at their schools longer.[78]

We believe the lesson is clear: Good teachers don't leave demanding schools that hold them to high expectations; they leave schools that aren't serious about good teaching. Below, we detail the two keys to solving the real teacher retention crisis:

① Make retention of Irreplaceables a top priority

② Strengthen the teaching profession through higher expectations





① MAKE RETENTION OF IRREPLACEABLES A TOP PRIORITY

"They could have gotten me to stay. If they could have put me in charge of paraprofessional development, or given me some sort of leadership opportunity so I could feel I was impacting my school beyond my classroom, that would have been a big deal for me."

-Irreplaceable Teacher

A combination of better strategies, better leadership and better policies will help keep the best teachers in the classroom longer.

Set clear, public retention targets for Irreplaceables

Districts must stem the tide of Irreplaceables who leave their schools, especially those who leave early in their careers. In general, districts should aim to keep more than 90 percent of their Irreplaceables every year, but more importantly, they should **raise the retention rate of Irreplaceables in their first five years to at least 75 percent (an increase of about 50 percent).**

Districts should publicly report retention results by school, and principals and district leaders should be held accountable for the results. In particular, they should set aggressive goals for smart retention in low-performing turnaround schools, to help these schools reach at least the district average in teacher effectiveness within three to four years.

Overhaul principal hiring, support and evaluation to focus on instructional leadership

Smart retention will not occur at scale unless principals have the ability to build strong instructional teams and the cultures that can help maintain them. This means setting and enforcing high expectations for teachers—and encouraging *every* Irreplaceable to stay every year. Districts should make these leadership skills an integral part of the hiring, development and evaluation system for principals.

For example, districts should hire principals who have a strong vision for instruction and can get their teachers to buy in. Development for principals should focus on the specific steps they can take to retain more Irreplaceables and create cultures that foster smart retention patterns. **Retention of Irreplaceables and counseling-out of low performers should be a top priority for principals and a significant component of a principal's evaluation.**

Monitor school working conditions and address concerns that drive away Irreplaceables

Principals and district leaders should give teachers frequent opportunities to share feedback about working conditions, and they should use the results to improve teachers' day-to-day experiences. This is especially important in low-performing schools where Irreplaceables tend to be less satisfied with their work environment, often because of school safety problems, low parent engagement and issues with student conduct.

The exact solutions will depend on the school—one school may need additional security personnel,while another might need additional training for administrators on providing feedback to teachers. But district leaders should be prepared to provide additional support and resources to help schools address particularly difficult challenges.

Pay Irreplaceables what they're worth, and create career pathways that extend their reach

State and district leaders should phase out quality-blind pay structures in favor of more flexible compensation systems that offer greater earnings potential for high-performing teachers early in their careers. As a rule of thumb, **we recommend that Irreplaceables be able to make a six-figure salary by the end of their sixth year of teaching** (or the market equivalent in lower cost-of-living areas). To fund these raises, states and districts will need to reduce or phase out automatic salary increases for factors that have no proven connection to a teacher's success in the classroom, such as additional college course credits or advanced degrees. They will also need to reduce or phase out automatic increases for seniority. These transitions will be difficult, but districts cannot afford to award raises for ineffectiveness and still pay top teachers the salaries they deserve.

Districts should also create a variety of career paths that help Irreplaceables expand their influence in their schools. Throughout their careers, top teachers should have opportunities to reach more students—for example, by taking on additional students or classes in exchange for a raise. They should also have opportunities to support their colleagues by taking on school-based instructional leadership positions.[79]

Irreplaceables are clearly interested in these kinds of career advancement opportunities, which still allow them to spend a significant amount of time in the classroom. For example, our analysis suggests that nearly **70 percent of Irreplaceables would take on an additional five students in exchange for a $7,500 raise.**[80] Career opportunities could be especially powerful recruitment and retention tools for low-performing schools; in one district, **the percentage of teachers who would choose to work in a low-performing school doubled when the school offered teacher leader roles.**[81]

Protect Irreplaceables during layoffs

States and districts should replace quality-blind layoffs with rules that consider performance more than seniority, so that Irreplaceables are protected during layoffs.[82]

THE IMPORTANCE OF MEANINGFUL EVALUATION SYSTEMS

Smart retention hinges on the ability of school and district leaders to accurately identify Irreplaceables and low-performing teachers. States and school districts need to replace outdated teacher evaluation systems that rate nearly all teachers "satisfactory" and give them little useful feedback on their performance.

Research has shown that combining value-added data with the results of classroom observations and student surveys provides a more complete and accurate picture of a teacher's success.[83] Although using value-added data was the most practical way to conduct the research for this report, we strongly believe that teacher evaluations in the real world should use a "multiple measures" approach.[84]

However, school and district leaders don't need to wait for better evaluations to start focusing on smart retention. While working to build new evaluation systems, they can use existing information to better understand their teachers' performance.

For example, the Houston Independent School District developed a "staff review" process while it worked to build a comprehensive new evaluation system. As part of the process, principals gave each teacher an informal performance rating based on the results of standardized tests, classroom observations and all other available performance information.[85] Research shows that principals can make these kinds of judgments accurately, especially when it comes to the highest and lowest performers.[86]

The process helped the district support smarter retention decisions by requiring principals to discuss the retention of every high- and low-performing teacher with their managers. Principals needed to explain everything they had done to retain their Irreplaceables. If they were not working to dismiss or counsel out a low-performing teacher, they needed to make a compelling case for giving that teacher another year to improve.

Teachers who cannot teach as well as a first-year teacher should be considered ineffective—unless they *are* first-year teachers.

② STRENGTHEN THE TEACHING PROFESSION THROUGH HIGHER EXPECTATIONS

"If we set high expectations that everyone would follow, then I would love to remain at my present job."

-Irreplaceable Teacher

Retaining more Irreplaceables alone will not solve the real retention crisis or the problem of chronically low student achievement. School and district leaders must also address the other side of the retention crisis: the indifference to performance that has allowed so many ineffective teachers to remain in the classroom for years or even decades, weakening the entire teaching profession in the process. Reversing this trend requires a commitment by principals to make uncomfortable decisions and a commitment by district leaders and policymakers to support those decisions.

Set a new standard for effectiveness and dismiss or counsel out teachers who consistently perform below it

Our analysis shows that schools routinely retain experienced teachers who are less effective than even novice teachers. It is time to aim higher.

Teachers who cannot teach as well as the average first-year teacher should be considered ineffective—unless they *are* first-year teachers. Those who fail to improve rapidly—within one year—should not remain in the classroom, and principals should be held accountable for making sure they don't.

While this standard may seem ambitious, anything less would allow low-performing teachers to remain indefinitely. We believe it is impossible to justify that outcome given the dire consequences for schools and students.

Districts and schools can start by enforcing higher standards for early-career teachers: by hiring more selectively and awarding tenure (and the essentially irrevocable employment protection that comes with it) only to teachers who have helped their students learn year in and year out.

But principals must also have the courage—and the support from district leaders—to apply rigorous expectations to ineffective experienced teachers, even if it takes longer to remove them. We project that the typical urban district could remove most of its experienced but low-performing teachers within five years by practicing smart retention.[87]

It's worth noting again that principals and district leaders must make these difficult and long-deferred decisions while still treating low-performing teachers respectfully. The vast majority of these teachers are doing a hard job to the best of their abilities; they are simply unable to meet the high expectations that should have been in place long ago.

As uncomfortable as it might be to dismiss or counsel out a large number of experienced low performers, it's something that districts should only have to do once on a large scale if coupled with more rigorous standards for hiring and tenure. After that, a continued focus on smart retention should prevent large numbers of ineffective teachers from becoming career teachers in the first place.

Make it easier to counsel out low performers by creating alternatives to formal dismissal

In companies and organizations across the country, employees who struggle in their jobs are typically given several avenues to leave without officially being fired. Principals shouldn't always have to resort to burdensome formal dismissal processes; as we have shown, receiving candid feedback can be enough to convince low performers to leave voluntarily. Districts should create more options to help principals counsel out low performers. Examples might include:

- Training and support from district staff on how to have honest conversations with teachers about their poor performance and encourage them to resign voluntarily.
- Outplacement assistance for low-performing new teachers so they can smoothly transition to another role or even another line of work.
- Lump sum buy-outs and retirement incentives for experienced low-performing teachers.
- Salary freezes for low-performing teachers who decline buyouts and retirement incentives.
- Reassignment of poor performers away from regular classroom assignments to substitute pools.

When all else fails, though, it is crucial that district leaders give principals the training and legal support they need to navigate the formal dismissal process.

Remove the policy barriers to higher expectations

It's unfair to expect principals to have high expectations for their teachers while tolerating outdated policies that undermine those expectations. State and district leaders should reform the two biggest policy roadblocks to higher expectations:

Staffing restrictions: All districts should adopt mutual consent staffing policies that give principals the final say in hiring decisions and prevent teachers from being forced into jobs that they do not want. This ensures that when principals put in the effort to counsel out a low-performing teacher, they will be able to hire a new teacher who has the potential to be more effective rather than rolling the dice with a teacher force-placed by human resources.

Dismissal rules: Schools need fair but efficient dismissal policies that enable them to remove low performers without facing the prospect of an indefinite, quasi-judicial process of hearings and appeals. Teachers should be able to contest their dismissal, but the hearing timeline should be limited to one day. During the hearing, arbitrators should be limited to deciding whether the dismissal process was followed and the judgments of school administrators were made in good faith, rather than substituting their judgment of teacher competence for that of school and district leaders.

ENDING THE REAL RETENTION CRISIS—A FIVE-YEAR ROADMAP FOR SUPERINTENDENTS

Implement "staff review" process and design/pilot better teacher evaluations

Clarify expectations for classroom performance (e.g., that all teachers must perform at least as well as the average first-year teacher)

Help principals make more rigorous tenure decisions

Create system to track teacher retention by performance

Train principals on low-cost retention strategies for top teachers

Retrain and, if necessary, replace principals' managers to focus on coaching and improve instructional leadership and smart teacher retention

Survey teachers at low-performing schools to assess gaps in instructional culture and working conditions

YEAR 2

Implement new formal teacher evaluation systems that provide accurate assessments rooted in student outcomes (if none currently exist)

Implement more rigorous hiring criteria for new teachers, including demonstrated classroom skills

Revise principal selection, development and evaluation criteria and processes to focus on instructional leadership and smart teacher retention

Set district- and school-level targets for increasing retention of top-performing teachers and reducing retention of low-performing teachers, and ensure that those targets will help turnaround schools reach the same teacher composition as average schools within three years

YEARS 3-5

Continue monitoring teacher retention targets at both district and school levels and provide ongoing support to principals, with a focus on low-performing schools

Design, negotiate (where applicable) and implement new teacher compensation system and career pathways

Negotiate (where applicable) and implement reforms to staffing, layoff and dismissal rules

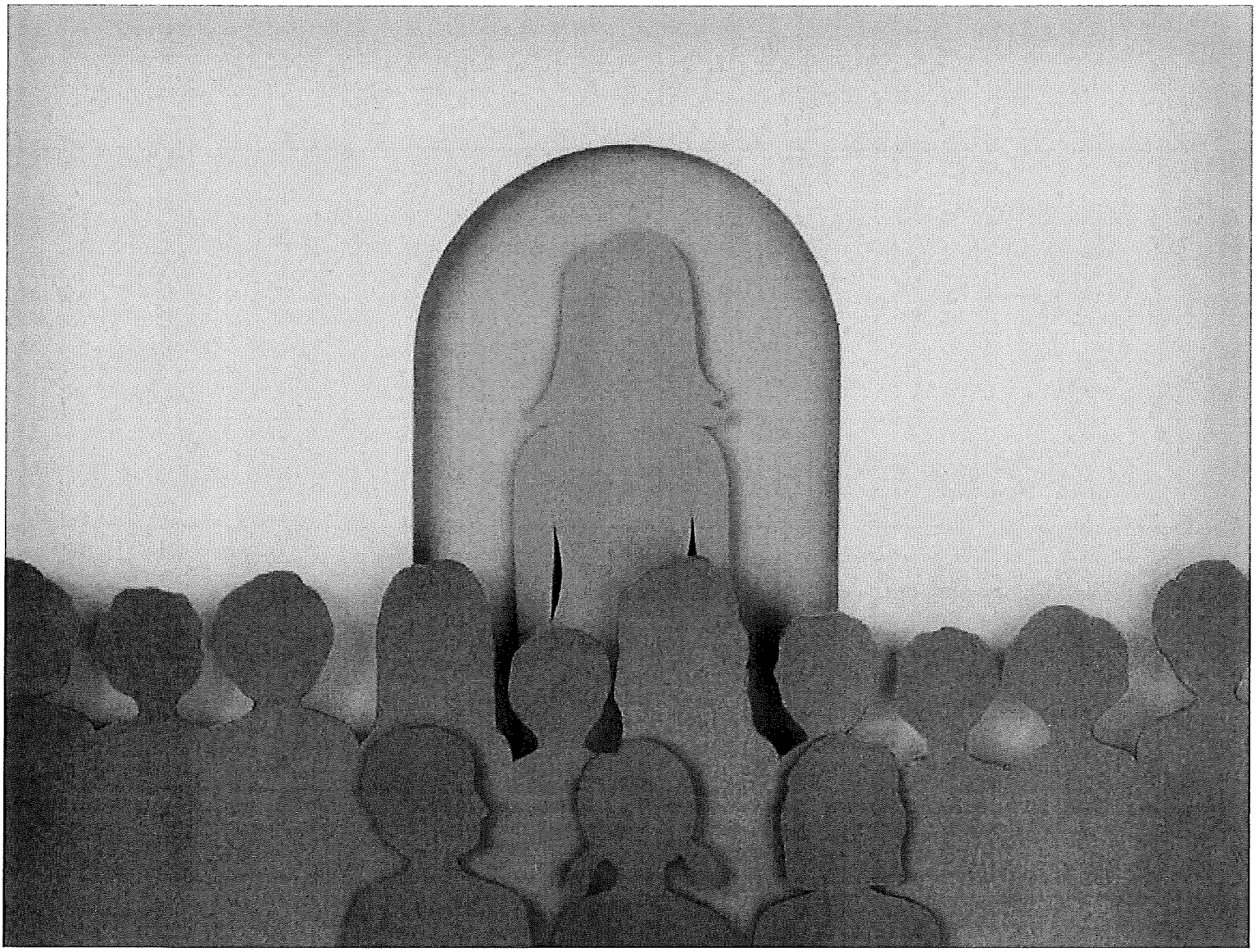
SMART RETENTION AS THE BEST TURNAROUND STRATEGY FOR STRUGGLING SCHOOLS

Focusing on smart retention can help schools quickly and dramatically improve the quality of teaching they provide to their students, which is the key to boosting student learning. It may represent a struggling school's best chance to improve; indeed, we have shown that low-achieving schools have little hope of reaching even average performance without keeping more Irreplaceables and fewer low-performing teachers over the course of several years.

Yet few schools have actually tried this promising strategy for improvement. Across the four districts we studied, only about 30 percent of schools had achieved smart retention rates for a single year, and only about 10 percent had sustained these rates for three years in a row.[88]

We believe that federal and state policymakers should make smart retention the primary turnaround strategy for struggling schools. **A one-time overhaul of the teaching staff at these schools—one of the major federal turnaround strategies today—is not enough to ensure long-term improvement.** Struggling schools need a sustained focus on smart retention to get better results for their students.

Using retention as the primary tool for school improvement could deliver substantial results at a low cost within just a few years.



TECHNICAL APPENDIX

The technical appendix provides additional details on the scope of this report and the performance measures used to identify high- and low-performing teachers, as well as details regarding conjoint methodology.

SCOPE OF THE REPORT

This report explores the experiences of the nation's most successful teachers. The results are based on data collected from four urban school districts and one charter management organization (CMO). These educational authorities employ more than 90,000 teachers in more than 2,100 schools in any given year. The four districts provided TNTP with district-specific teacher performance data; the charter management organization provided internal evaluation data on teacher performance. TNTP used these data to identify approximately the top and bottom 20 percent of teachers based on value-added analysis or growth data.

STUDENT DEMOGRAPHICS BY DISTRICT		
District	FRPL*	African-American and Hispanic Students
District A	53%	58%
District B	72%	73%
District C	79%	88%
District D	75%	69%
District E (CMO)	80%	95%

*Students who receive free and reduced-price school lunch

DATA SOURCES

Both quantitative and qualitative methods were used in the report. The two primary sources of data were teacher performance data provided by the districts and confidential teacher and school leader surveys administered by TNTP in the 2010-11 or 2011-12 school years. Performance data were linked to individual teacher survey responses in order to better understand the perspective of the most successful teachers in each district. In most cases, district performance data from the previous year were used to analyze survey data.[89] When analyzing results based on school type or school characteristics, a minimum school response rate of 20 to 30 percent was required, depending on the district.

District	Teacher Survey Response Totals	School Leader Survey Response Totals
District A	3,776	216
District B	1,293	108
District C	4,831	434
District D	11,978	936
District E (CMO)	174	23

In addition to surveys and performance data, each school district included teacher and administrator roster/demographic information, as well as school-level demographic and achievement information. These sources were used to calculate annual district and school retention rates across multiple years.

Qualitative data sources included open-response survey questions, interviews, focus groups and research of district policies and practices.

TEACHER PERFORMANCE MEASURES

Value-added and growth data were used to identify approximately the top and bottom 20 percent of teachers in tested grades and subjects for teachers.[90] We used each district's specific performance measure to identify high- and low-performing teachers. Therefore, models vary for each district, given differences in size, scale and evaluation. In the charter management organization, value-added or growth measures were not available, so the CMO's performance evaluations were used to identify its highest- and lowest-performing teachers.

PERFORMANCE MEASURE BY DISTRICT					
	District A	District B	District C	District D	District E (CMO)
Performance Measure	Value-added data	Growth data	Value-added data	Value-added data	Evaluation data
Number of years	Composite of latest three years of value-added scores	Single-year growth score	Single-year value-added score	Single-year value-added score	Single-year evaluation score
Subjects	Math, reading, language and science	Math, reading and writing	Math, reading, language, history and science	Math and ELA	All subjects
Grades	Grades 3-10	Grades 4-10	Grades 3-8	Grades 4-8	Grades 6-12
High-performing*	21%	20%	20%	18%	10%
Low-performing*	24%	21%	19%	16%	10%

*Percentages based on SY 2009-10 performance measure for teachers in given grades and subjects above (excluding District E, where percentages were based on SY 2010-11 performance measures)

DISTRICT A

District A provided a value-added score based on a multilevel, mixed-effect linear regression. Value-added measures were available for those teaching language, math, reading and science in grades 3 through 10. The value-added score is a composite of the latest three years of value-added scores. In addition to the value-added estimate, the district provided confidence intervals representing the range of scores that a teacher's "true" score falls into with 95 percent certainty.

High-Performing Teachers: Teachers with at least one lower bound confidence interval greater than the population mean value-added score and no value-added score below the population mean value-added score.

Low-Performing Teachers: Teachers with at least one upper bound confidence interval less than the population mean value-added score and no lower bound confidence interval greater than the population mean value-added score.

Under the above performance measure, 21 percent of District A teachers with value-added data were classified as high-performing, and 24 percent as low-performing.

DISTRICT B

District B uses a growth model and provided us with student growth scores for math, reading and writing in grades 4 through 10. We calculated teacher-level growth percentiles for each subject by taking all student growth percentiles assigned to a teacher, ordering them from lowest to highest, and identifying the middle score, which is the median teacher growth percentile. The median teacher growth percentile represents the "typical" growth of their students.

High-Performing Teachers: One or more median growth percentile scores above the 65th percentile and no median growth score below the 35th percentile.

Low-Performing Teachers: One or more median growth percentile scores below the 35th percentile and no median growth score above the 65th percentile.

Under the above performance measure, 20 percent of District B teachers with growth data were classified as high-performing, and 21 percent as low-performing.

DISTRICT C

District C provided a single-year value-added score calculated for each teacher within tested grades and subjects. Value-added measures were available for those teaching language, math, and reading in grades 3 through 8, and for those teaching science and history in grades 4 through 8.

Each score is expressed as a difference from the average district gain. The score allows teachers' gains to be rank ordered. It is calculated by subtracting the district's average gain from the teacher's average gain and dividing that score by the teacher's standard error. For appraisal purposes, the district reserves the highest and lowest evaluation scores for teachers with scores equal to or above +2 and equal to or below −2. Scores between -1 and +1 are considered statistically no different than 0.

For our analysis, we designated high- and low-performing cutoff scores at equal to or above +2 and equal to or below -2. Because about 65% of teachers had more than one value-added score, we placed teachers in the following categories:

High-Performing Teachers: At least one score greater than or equal to +2, and all scores greater than or equal to -1.

Low-Performing Teachers: At least one score less than or equal to -2, and all scores less than or equal to +1.

Under the above performance measure, 20 percent of District C teachers with value-added data were classified as high-performing, and 19 percent as low-performing.

DISTRICT D

District D provided single-year value-added scores for core ELA and math teachers teaching students in grades 4 through 8. Prior-year ELA and math scores, student demographics and classroom characteristics were included in the calculations. The district calculated value-added percentiles by grade, subject and teacher experience group for all teachers in tested grades and subjects. The district also provided lower-bound and upper-bound percentiles for each teacher, identifying the parameters of the 95 percent confidence interval.

For our analysis, we designated high- and low-performing cutoff scores in the following way, utilizing the 95 percent confidence intervals of the value-added data:

High-Performing Teachers: At least one lower bound confidence interval greater than the 50th percentile and all value-added percentiles greater than or equal to the 50th percentile.

Low-Performing Teachers: At least one upper bound confidence interval lower than the 50th percentile and all value-added percentiles lower than or equal to the 50th percentile.

Under the above performance measures, 18 percent of District D teachers with value-added data were classified as high-performing, and 16 percent as low-performing.

DISTRICT E (CMO)

District E, a charter management organization, does not use value-added or growth measures to assess its teachers. However, it does have a differentiated evaluation system, where teachers are rated on a five-point scale. For our analysis, we designated high- and low-performing teachers as follows:

High-Performing Teachers: Rating in the top two performance categories.

Low-Performing Teachers: Rating in the lowest performance category.

Under the above performance measures, 10 percent of District E teachers were classified as high-performing, and 10 percent as low-performing.

CONJOINT ANALYSIS

We employed market research methodology called adaptive conjoint analysis (ACA) to examine teacher preferences for school attributes in several districts.[91] We showed teachers pairs of potential school environments in which key attributes of the working environment were varied. Teachers chose their preferred option of the pairs presented, based on their desire to teach at a school with the described attributes. Along with other conclusions, the results of this analysis allowed us to estimate how many Irreplaceables would "choose" to teach at a low-performing school if other conditions were to change.

In our analysis, we tested attributes related to quality of school leadership, base compensation, performance bonuses, class size, career ladders, retirement and school type. The majority of our analysis utilizes first-choice simulation methodology, which uses statistical modeling to report the proportion of teachers who prefer each of the choices in the scenarios tested. Modeling was performed with the assumption that the random sample tested is representative of the larger population of teachers in our districts.

NOTES

[1] Individual teacher and school names have been changed. All available district data provided in the following notes.

[2] For the definition of high performers in each district, see the Technical Appendix.

[3] Kane, T.J., & Staiger, D.O. (2012). *Gathering feedback for teaching: Combining high-quality observations with student surveys and achievement gains.* Seattle, WA: Bill & Melinda Gates Foundation.

[4] Months of learning estimates calculated following the methodology of Hahnel, C. & Jackson, O. (2012). *Learning denied: The case for equitable access to effective teaching in California's largest school district.* Oakland, CA: The Education Trust-West. Source: District VA/growth data and grade distribution information, SY 2009-10 and 2010-11.

[5] Chetty, R., Friedman, J.N., & Rockoff, J.E. (2011). *The long-term impacts of teachers: Teacher value-added and student outcomes in adulthood* (Working Paper 17699). Cambridge, MA: National Bureau of Economic Research.

[6] Figure shows the percentage of secondary school students in a class agreeing with a statement about their teacher. The orange bars display student responses for teachers with the lowest student achievement gains (i.e., those in the bottom 20%) and the green bars for teachers with the highest student achievement gains (i.e., those in the top 20%). Data was collected using the Tripod student survey and includes responses from the students of 508 teachers in grades 6 through 8 in six urban districts. Results based on yet unpublished analysis for TNTP by the Measures of Effective Teaching (MET) project, a partnership of teachers, academics, and education organizations investigating better ways to identify and develop effective teaching. Funding for the MET project comes from the Bill & Melinda Gates Foundation. For more information see www.metproject.org.

[7] Median values reported for background and workload. Q: "Effective teachers can lead most of their students to achieve at high levels, despite challenges they may face" and "I understand how effective I am at achieving positive student outcomes relative to other teachers in my district." Percent of each group selecting "agree" or "strongly agree." Additional months of student learning estimates calculated following the methodology of Hahnel & Jackson (2012). Characteristics of Irreplaceables compared to low performers and all teachers with VA/growth data confirmed across districts. Source: District D data and survey data.

[8] Q: "Effective teachers can lead most of their students to achieve at high levels, despite challenges they may face." Percent of high and low performers selecting "agree" or "strongly agree." Differences were statistically significant with $p < .05$ in District A; $p < .10$ in District D. Districts: A: high 59%, low 47%; B: high 58%, low 56%; C: high 68%, low 57%; D: high 53%, low 44%. Q: "I understand how effective I am at achieving positive student outcomes relative to other teachers in my district." Percent of high and low performers selecting "agree" or "strongly agree." Differences statistically significant with $p < .05$ in Districts A, C, D. Districts: A: high 64%, low 51%; B: high 60%, low 48%; C: high 79%, low 58%; D: high 69%, low 48%. Source: Teacher survey data.

[9] Median hours of high, mid, and low performers. Districts: A: high 50, mid 50, low 50; B: high 60, mid 55, low 55; C: high 48, mid 48, low 45; D: high 50, mid 50, low 50. Source: Teacher survey data.

[10] Percent of high performers selecting zero or one of influential retention strategies. Districts: B: 32%; C: 45%; D: 46%. Source: Teacher survey data.

[11] Estimate based on data from the National Center for Education Statistics (NCES) and teachers with VA/growth data. Source: District data, SY 2007-11 and NCES.

[12] Percent of low performers selecting at least one of the following attrition strategies: "Suggested that I leave teaching (encouraged me to consider other careers)," "Suggested that I consider other schools," "Gave me a poor evaluation rating," "Assigned me less desirable responsibilities," "Told me that I was not a fit for my school." Districts: B: 17%; D: 11%. Percent of low performers with four or more years of experience selecting "Encouraged me to continue teaching at my school next year." Districts: B: 26%; C: 28%, D: 19%. Source: Teacher survey data.

[13] Estimates based on teachers with VA/growth data; Assumption that VA/growth teacher performance distribution reflects general teacher population within each district. Percent of all teachers who are low performers with at least four years of experience: Districts: A: 13%; B: 13%; C: 12%; D: 11%. Source: District data, SY 2009-10.

[14] Schools that exit more low performers than high performers increase the proportion of high performers and decrease the proportion of low performers they have the following year, building more effective teaching teams over time. Correlations between change in school-level concentration of high performers and positive difference between attrition of low performers and that of high performers significant in all districts ($p < .05$ in Districts A, B, C, $p < .10$ in District D). Districts: A: .159; B: .415; C: .275; D: .084. Source: District data.

[15] Hunt, J.B., & Carroll, T.G. (2003). *No dream denied: A pledge to America's children.* Washington, DC: National Commission on Teaching and America's Future.

[16] Weisberg, D., Sexton, S., Mulhern, J., & Keeling, D. (2009). *The widget effect: Our national failure to acknowledge and act on differences in teacher effectiveness.* New York, NY: TNTP.

[17] Estimates based on first-year teachers with VA/growth data. Districts: A: high 12%, mid 62%, low 26%; B: high 16%, mid 58%, low 26%; C: high 15%, mid 62%, low 23%; D: high 15%, mid 67%, low 18%. Source: District data, SY 2009-10. For improvement over time see: Hanushek, E., Kain, J., & Rivkin, S. (2005). Teachers, schools, and academic achievement." Econometrica, 73(2), 417-458. Boyd, J., Lankford, H., Loeb, S., Rockoff, J., & Wyckoff, J. (2007). *The narrowing gap in New York City teacher qualifications and its implications for student achievement in high-poverty schools* (Working Paper 10). Washington, DC: The Urban Institute.

[18]Ronfeldt, M., Loeb, S., & Wyckoff, J. (2012). *How teacher turnover harms student achievement* (Working Paper 70). Washington, DC: National Center for Analysis of Longitudinal Data in Education Research.

[19]Percent of school leaders ranking "Developing teachers and improving instructional practice through evaluation / coaching / professional development" or "Retaining the most effective teachers" as a top five priority at their school. Districts: A: developing 76%, retaining 45%; B: developing 84%, retaining 38%; C: developing 71%, retaining 47%; D: developing 77%, retaining 20%. Source: School leader survey data.

[20]Median percentile ranks by population scores. Districts: B: Low-performing veteran cohort population defined in SY 2008-09; veteran low performers median value-added percentile rank in SY 2009-10: 30, SY 2010-11: 34; new teachers median performance 49 to 51, SY 2009-11; C: Low-performing veteran cohort population defined in SY 2007-08; veteran low performers median value-added percentile rank in SY 2008-09: 34, SY 2009-10: 34, SY 2010-11: 39; new teachers median performance 43 to 46, SY 2008-11. Source: District data.

[21]Attrition includes district leavers as well as internal transfers. Low performers school-based retention: Districts: A: 72%; B: 75%; C: 79%; D: 88%. Source: District data.

[22]Q: "What is your best estimate for how many more years you plan to remain a teacher in any school (whether in this or another district or system)?" Percent of low performers selecting at least 10 years. Districts: A: 48%; B: 62%; C: 55%; D: 52%. Source: Teacher survey data.

[23]Estimates based on first-year teachers with VA/growth data. Districts: A: high 12%, mid 62%, low 26%; B: high 16%, mid 58%, low 26%; C: high 15%, mid 62%, low 23%; D: high 15%, mid 67%, low 18%. Source: District data, SY 2009-10. For improvement over time see: Hanushek et al. (2005) and Boyd et al. (2007).

[24]Attrition rate of high and low performer district leavers. Districts: A: high 17%, low 21%; B: high 12%, low 19%; C: high 8%, low 16%; D: high 6%, low 6%. Source: District data, SY 2009-10.

[25]Low performer estimate based on data from the National Center for Education Statistics (NCES) and teachers with VA/growth data. Source: District data, SY 2007-08 through 2010-11 and NCES. Estimates based on teachers with VA/growth data in Districts A and C and number of teachers with seven or greater years of district experience. Percent of teachers with seven or more years of experience with average VA/growth score lower than average VA/growth score of first-year teachers. Districts: A: 57%; C: 39%. Source: District data, SY 2009-10.

[26]Q: "My primary reason for pursuing other opportunities is…" (Asked of those planning to leave current school in next three years.) Percent of high performers selecting "Personal reasons not related to the school." Districts: A: 24%; B: 20%; C: 29%; D: 22%. Source: Teacher survey data.

[27]Q: "Which of the following best describes your plans for the 2-3 years after you stop teaching at your current school?" (Asked of those planning to leave current school in next three years.) Percent of high performers. Districts: A: teach same area 28%, another role in K-12 31%; C: teach same area 34%, another role in K-12 33%; D: teach same area 30%, another role in K-12 29%. Source: Teacher survey data.

[28]Q: "If the following factor at your current school were to change for the better, would you continue teaching at your school?" (Factor is the teacher's top-ranked reason for leaving as identified in previous question.) Percent of high performers selecting "Yes." Districts: A: 76%; B: 86%; C: 90%; D: 79%. Source: Teacher survey data.

[29]Q: "My primary reason for pursuing other opportunities is…" (Asked of those planning to leave current school in next three years.) Percent of high performers selecting "Personal reasons not related to the school." Districts: A: 24%; B: 20%; C: 29%; D: 22%. Source: Teacher survey data.

[30]Number of retention strategies received was a significant predictor of longer planned retention for all teachers after controlling for seniority, school proficiency and instructional culture in Districts C and D. In District B, trend was not significant.

[31]Mean year values for high performers who reported receiving zero or one of listed strategies compared to those who reported receiving two or more. Differences statistically significant with $p < .05$ in Districts C and D; difference statistically significant with $p < .10$ in District B. Districts: B: zero or one 3.6, two or more 7.7; C: zero or one 4.8, two or more 7.1; D: zero or one 4.6, two or more 10.8 years. Source: Teacher survey data.

[32]Percent of high performers selecting zero or one of listed strategies. Districts: B: 32%; C: 45%; D: 46%. Source: Teacher survey data.

[33]Percent of high performers selecting zero of listed strategies. Districts: B: 21%; C: 26%; D: 24%. Source: Teacher survey data.

[34]Percent of high performers selecting each of the following: "Provided me with regular, positive feedback," "Recognized my accomplishments publicly." Districts: B: positive 40%, recognized 32%; C: positive 48%, recognized 39%; D: positive 31%, recognized 21%.Source: Teacher survey data.

[35]Q: Percent of high performers selecting "Encouraged me to continue teaching at my school next year." Districts: B: 37%; C: 33%; D: 23%. Source: Teacher survey data.

[36]Q: "How would you rate your own ability to produce positive academic outcomes for your students relative to other teachers in your district?" Percent of low performers selecting "Better than average" or "Exceptional." Districts: B: 77%; D: 65%. Source: Teacher survey data.

[37]Percent of teachers planning to stay zero additional years at current school who did or did not select at least one attrition strategy. Districts: D: selecting none - 7% planned leave end of year; selecting at least one - 19% planned leave end of year. Source: Teacher survey data.

[38]Q: "Last year / In the last year, someone from my school leadership team has…" Percent of high and low performers selecting each of the following: "Provided me with regular, positive feedback", "Helped me identify areas of development", "Gave me critical feedback about my performance informally" (not available option in District C), "Recognized my accomplishments publically", "Informed me that I am high performing", "Identified opportunities or paths for teacher leader roles", "Put me in charge of something important" (not available option in District C), "Provided me with access to additional resources for my classroom" (not available option in District C). Differences for "Informed me that I am high performing" were statistically significant with $p < .05$ in Districts B, C, and D; difference for "Critical feedback" was statistically significant with $p < .10$ in District B. Districts: B: high performers "Positive feedback" 40%, "Recognized accomplishments" 32%, "Put me in charge" 26%, "Informed am high performing" 47%, "Identify areas of development," 42%, "Additional resources" 32%, "Teacher leader roles" 26%, "Critical feedback" 42%; low performers "Positive feedback" 31%, "Recognized accomplishments" 31%, "Put me in charge" 25%, "Informed am high performing" 25%, "Identify areas of development," 36%, "Additional resources" 31%, "Teacher leader roles" 31%, "Critical feedback" 22%; C: high performers "Positive feedback" 48%, "Recognized accomplishments" 39%, "Informed am high performing" 61%, "Identify areas of development," 24%, "Teacher leader roles" 17%; low performers "Positive feedback" 40%, "Recognized accomplishments" 34%, "Informed am high performing" 34%, "Identify areas of development," 40%, "Teacher leader roles" 23%; D: high performers "Positive feedback" 31%, "Recognized accomplishments" 21%, "Put me in charge" 28%, "Informed am high performing" 40%, "Identify areas of development," 25%, "Additional resources" 34%, "Teacher leader roles" 13%, "Critical feedback" 28%; low performers "Positive feedback" 25%, "Recognized accomplishments" 18%, "Put me in charge" 25%, "Informed am high performing" 17%, "Identify areas of development," 27%, "Additional resources" 29%, "Teacher leader roles" 16%, "Critical feedback" 25%. Source: Teacher survey data.

[39]Percent of high performers compared to low performers selecting the following: "Identified opportunities or paths for teacher leader roles." Districts: B: high 26%, low 31%; C: high 17%, low 23%; D: high 13%, low 16%. Source: Teacher survey data.

[40]Q: "School leaders consistently communicate high expectations to teachers regarding achieving positive student outcomes," "School leaders consistently support teachers," "Ineffective teaching is not tolerated at my school." Percent of teachers at schools with highest retention of effective teachers compared to those at schools with lowest selecting "agree" or "strongly agree." Differences significant with $p < .05$ in Districts A, C, D for expectations and support and in Districts A and C for ineffective; values identical for expectations in District B; trend in same direction but not significant for support in District B and ineffective in District D. Districts: A: highest – expectations 73%, support 43%, ineffective 49%; lowest – expectations 64%, support 25%, ineffective 34%; B: highest – expectations 76%, support 48%, ineffective 44%; lowest – expectations 76%, support 39%, ineffective 41%; C: highest – expectations 79%, support 56%, ineffective 52%; lowest – expectations 59%, support 29%, ineffective 44%; D: highest – expectations 70%, support 42%, ineffective 44%; lowest – expectations 64%, support 35%, ineffective 42%. Source: Teacher survey data.

[41]We assessed instructional culture using our Instructional Culture Insight survey. For more information about Insight and instructional culture, see: TNTP (2012). *Greenhouse schools: How schools can build cultures where teachers and students thrive.* New York, NY: TNTP. School attrition of Irreplaceables at schools with strong and weak culture in Districts: A: strong 20%, weak 31%; C: strong 16%, weak 30%. Source: District and teacher survey data.

[42]Data on schools represent all teachers, instead of high performers, for sufficient N. Perceptions of culture and working conditions similar between high performers and all teachers.

[43]Q: "Level of parent engagement," "Student conduct," "Safety," "School location." Percent of teachers at schools in highest school-level math proficiency quintile compared to teachers at schools in lowest selecting "satisfied" or "very satisfied." All differences significant with $p < .05$ in all districts. Districts: A: highest – parent 82%, conduct 76%, safety 90%, location 85%; lowest – parent 4%, conduct 10%, safety 37%, location 47%; B: highest – parent 60%, conduct 53%, safety 85%, location 83%; lowest – parent 9%, conduct 33%, safety 59%, location 59%; C: highest – parent 50%, conduct 55%, safety 75%, location 84%; lowest – parent 13%, conduct 19%, safety 43%, location 55%; D: highest – parent 50%, conduct 60%, safety 84%, location 78%; lowest – parent 12%, conduct 17%, safety 39%, location 51%. Source: Teacher survey data.

[44]Q: "Quality of teachers at school," "Quality of school leadership." Percent of teachers at highest proficiency schools compared to those at lowest selecting "satisfied" or "very satisfied." Districts: A: highest – teachers 85%, leadership 64%; lowest – teachers 48%, leadership 33%; B: highest – teachers 77%, leadership 54%; lowest – teachers 54%, leadership 36%; C: highest – teachers 76%, leadership 58%; lowest – teachers 54%, leadership 38%; D: highest – teachers 81%, leadership 48%; lowest – teachers 56%, leadership 34%. Source: Teacher survey data.

[45]Q: "What is your best estimate for how many more years you plan to remain a teacher in your current school?" Mean year values compared for teachers at highest proficiency schools and teachers at lowest proficiency schools. Differences were statistically significant with $p < .05$ in all districts. Districts: A: highest 7.6, lowest 3.7; B: highest 8.5, lowest 5.8; C: highest 7.8, lowest 5.5; D: highest 9.1, lowest 6.5. Source: Teacher survey data and school performance data.

[46]Percent of school leaders ranking "Retaining the most effective teachers" or "Dismissing ineffective teachers" as a top five priority at their school. Districts: A: retaining 45%, dismissing 23%; B: retaining 38%, dismissing 23%; C: retaining 47%, dismissing 31%; D: retaining 20%, dismissing 12%. Source: School leader survey data.

[47]District qualitative research. Also reviewed school leadership standards published by Interstate School Leaders Licensure Consortium (ISLLC), Mid-Continent Research for Education and Learning (McREL) and Vanderbilt Assessment of Leadership in Education (VAL-ED).

[48]Q: "District policies support my ability to retain my most effective teachers." Percent of school leaders selecting "agree" or "strongly agree." Districts: A: 30%; C: 38%. Source: School leader survey data.

[49]Q: "I have the necessary flexibility/autonomy to ensure my most effective teachers are retained." Percent of school leaders selecting "agree" or "strongly agree." Districts: A: 26%; B: 30%; C: 40%; D: 34%. Source: School leader survey data.

[50] Levin, J., & Quinn, M. (2003). *Missed opportunities: How we keep high-quality teachers out of urban classrooms.* New York, NY: TNTP. Levin, J., Mulhern, J., & Schunck, J. (2005). *Unintended consequences: The case for reforming the staffing rules in urban teachers union contracts.* New York, NY: TNTP. Weisberg et al. (2009). TNTP (2011). *The case against quality-blind layoffs: Why layoff policies that ignore teacher quality need to end now.* New York, NY: TNTP.

[51] District C has removed several policy barriers, but low performers receive a similar number of retention strategies as high performers. Percent of high and low performers receiving number of retention strategies in District C. Zero strategies: high 26%, low 31%; one strategy: high 19%, low: 21%, two strategies: high 19%, low 19%; three strategies: high 17%, low 13%; four strategies: high 13%, low: 8%; five strategies: high 6%, low 8%. Source: Teacher survey data.

[52] Weisberg et al. (2009).

[53] Total US spending on Master's Degree compensation for teachers was $14B in 2007-08. Forthcoming publication, Marguerite Roza. Districts spend approximately $1,004 per student on raises based on teachers' seniority and college credit. See: Roza, M. (2007). *Frozen assets: Rethinking teacher contracts could free billions for school reform.* Washington, DC: Education Sector.

[54] Q: "Please rank three of the most significant factors in your decision to stop teaching at your school" (asked of those planning to leave their current school in the next three years; excludes those selecting "personal reasons" as primary reason for leaving). Percent of high and low performers assigning a rank of 1, 2 or 3 to "Compensation." Differences significant with $p < .05$ in District C and D. Districts: A: high 42%, low 32%; C: high 19%, low 6%; D: high 22%, low 8%. Source: Teacher survey data.

[55] Percent of high performers with less than four years' experience: Districts: A: 46%; B: 43%; C: 36%; D: 37%. Source: District data, SY 2009-10.

[56] Percent of high performers earning a lower base salary than the average low performer: Districts: A: 54%; B: 45%; C: 69%; D: 57%. Source: District data, SY 2010-11 (District C) and SY 2009-10 (Districts A, B and D).

[57] Number of years to reach the top of the salary scale. Districts: A: 34; B: 13; C: 31; D: 22. Source: SY 2011-12 salary schedules; retrieved from district websites on 4/26/12.

[58] Percent of high and low performers selecting "Identified opportunities or paths for teacher leader roles." Districts: B: high 26%, low 31%; C: high 17%, low 23%; D: high 13%, low 16%. Source: Teacher survey data.

[59] Q: "Please rank three of the most significant factors in your decision to stop teaching at your school" (asked of those planning to leave their current school in next three years; excludes those selecting "personal reasons" as primary reason for leaving). Percent of high and low performers assigning a rank of 1, 2 or 3 to "Opportunities for career advancement." Differences significant with $p < .05$ in District C, $p < .10$ in District A. Districts: A: high 24%, low 14%; C: high 31%, low 13%; D: high 22%, low 23%. Source: Teacher survey data.

[60] For a summary of recent research about the effects of quality-blind layoffs, see: TNTP (2011).

[61] Levin et al. (2005).

[62] Onerous dismissal processes in urban school districts have been well documented. For examples from two districts, see Beth Barrett, "LAUSD's Dance of the Lemons," LA Weekly, February 11, 2010, and Steven Brill, "The Rubber Room," The New Yorker, August 31, 2009.

[63] Rivkin et al. (2005). Aaronson, D., Barrow, L., & Sander, W. (2007). Teachers and student achievement in the Chicago public high schools. *Journal of Labor Economics*, 25(1), 95-135. Jordan, H., Mendro, R., & Weerasinghe, D. (1997). *The effects of teachers on longitudinal student achievement.* Dallas, TX: Dallas Public Schools. Hanushek, E. (2002). Teacher quality. In L. T. Izumi and W. M. Evers (Eds.), *Teacher quality* (pp. 1–12). Stanford, CA: Hoover Press.

[64] Teacher composition calculated within school-level proficiency quintiles. Highest-proficiency schools composition of high and low performers: Districts: A: high 24%, low 19%; B: high 24%, low 20%; C: high 27%, low 14%; D: high 24%, low 15%. Lowest-proficiency schools composition of high and low performers: Districts: A: high 16%, low 31%; B: high 16%, low 26%; C: high 10%, low 30%; D: high 10%, low 21%. Source: District data, SY 2009-10.

[65] Example schools based on low-proficiency elementary schools in District D.

[66] Example schools based on mid-proficiency elementary schools in District D.

[67] District E; see Technical Appendix.

[68] For the definition of high performers for District E, see the Technical Appendix. Attrition rate includes transfers and leavers; only includes schools with both high- and low-performing teachers. Source: District E data, SY 2010-11 and SY 2011-12.

[69] Q: "Evaluation ratings carry positive and negative consequences." Percent of teachers selecting "strongly agree" or "agree." Districts: A: 50%; C: 58%; E: 78%. Q: "School leaders take action with teachers who perform poorly in the classroom - either helping them to improve or taking action to dismiss them." Percent of teachers selecting "strongly agree" or "agree." Districts: A: 45%; B: 35%; C 47%; D: 40%; E: 68%. Source: Teacher survey data.

[70] Q: "There is low tolerance for ineffective teaching at my school." Percent of teachers selecting "strongly agree" or "agree." Districts: A: 47%; B: 38%; C: 46%; D 42%; E: 72%. Source: Teacher survey data.

[71]Q: "How long do you think it should take for a first-year teacher who is ineffective to become effective? / for a veteran teacher who is ineffective to become effective?" Percent of school leaders selecting "2 school years," "2.5 school years," "3 school years" or "more than 3 school years." Districts: D: first year 70%, veteran 43%; E: first year 4%, veteran 0%. Source: School leader survey data.

[72]Q: "Overall, my school is a good place to teach and learn." Percent of all teachers selecting "agree" or "strongly agree." Districts: A: 55%; B: 62%; C: 58%; D: 56%; E: 89%. Source: Teacher survey data.

[73]Percent of high performers compared to low performers selecting "Recognized my accomplishments publicly." Districts: B: high 32%, low 31%; C: high 39%, low 34%; D: high 21%, low 18%. Source: Teacher survey data.

[74]Q: "There is a low tolerance for ineffective teaching at my school (A, C) / Ineffective teaching is not tolerated at my school (B, D)." Percent of all teachers selecting "agree" or "strongly agree." Districts: A: 47%; B: 38%; C: 46%; D: 42%. Source: Teacher survey data.

[75]Percent of schools practicing positive differential retention – losing more low performers than high performers – for three consecutive years -. Districts: A: 7%, B: 12%; C: 5%; D: 4%. Source: District data beginning SY 2007-08 (Districts A, C, D) / SY 2008-09 (District B.)

[76]TNTP (2012).

[77]Q: "Ineffective teaching is not tolerated at my school." Those selecting "agree" or "strongly agree" included in the school-level percentages of agreement. Minimum school-level response rates used in each district. School-level retention rates from SY 2010-11 at high- and low-agreement terciles reported. Differences were statistically significant with $p < .05$ in Districts A and D. Districts: A: high-agreement 72%, low-agreement 62%; B: high-agreement 61%, low-agreement 68%; C high-agreement 84%, low-agreement 81%; D: high-agreement 84%, low-agreement 78%. Source: Teacher survey data and district data.

[78]Q: "What percent of your colleagues are highly effective teachers who produce exceptional gains in student achievement?" Correlations between percent of colleagues perceived to be highly effective teachers and years planned retention of high performers. Correlations were statistically significant with $p < .05$ in Districts C and D; trends in same direction in other districts but not statistically significant. Districts: A: .111; B: .120; C: .179; D: .214. Source: Teacher survey data.

[79]See: Hassel, E., & Hassel, B. (2009). *3X for all: Extending the reach of education's best.* Chapel Hill, NC: Public Impact. Public Impact has posted numerous models schools could use to expand the impact of high-performing teachers to more students and other teachers at www.opportunityculture.org.

[80]Adaptive conjoint analysis performed with first choice simulation; Respondents asked to choose between taking on five more students with a $6,600 (District A) / $7,500 (District C) / $7,600 (District D) salary increase and no additional students or salary with all other attributes held constant. High performers selecting additional students and salary: Districts: A: 70%; C: 69%; D: 70%. Source: Teacher survey data.

[81]Adaptive conjoint analysis performed with first choice simulation. Percent of high performers selecting high need, low performing school over low need, high performing school with no clear leadership path: 22%. Percent of high performers selecting high need, low performing school with "clear path to taking on school leadership roles while continuing to teach" over low need, high performing school with no leadership options: 55%. Source: District D teacher survey data.

[82]TNTP (2010). *A smarter teacher layoff system: How quality-based layoffs can help schools keep great teachers.* New York, NY: TNTP.

[83]TNTP (2012). *MET Made simple: Building research-based teacher evaluations.* New York, NY: TNTP.

[84]For more about our recommendations on designing evaluation systems, see: TNTP (2010). *Teacher evaluation 2.0.* New York, NY: TNTP.

[85]Grier, T. (2011, November 16). A steppingstone to better teacher evaluation. *Education Week*, 31(12), 28-30.

[86]Lefgren, L., & Jacob, B. (2006). When principals rate teachers: The best—and the worst—stand out. *Education Next*, 6(2), 58-64.

[87]Example based on data in District C; attrition rate of low performers assumed to be 30%, attrition rate of high performers to be 4%. Model does not assume any fluctuations in size of teacher populations at schools, assumes population of teachers with performance data reflects the effectiveness of all teachers, assumes two-thirds of low performer leavers are veterans, and assumes that one-third of early-career low performers graduate to become veteran low performers each year. Source: District C data, SY 2009-10.

[88]Percent of schools practicing positive differential retention – losing more low performers than high performers – for one year: Districts: A: 25%; B: 37%; C: 28%; D: 27%. For three consecutive years: Districts: A: 7%; B: 12%; C: 5%; D: 4%. Source: District data beginning SY 2007-08 (Districts A, C, D) / SY 2008-09 (District B.)

[89]Excluding District D, where the most recent performance data available were from SY 2009-10. District D surveys were administered in the fall of SY 2011-12.

[90]District E (CMO) does not collect value-added or growth data. Instead, evaluation data were used to identify the top and bottom 10% of teachers.

[91]Districts A, C, D and E.

ABOUT TNTP

TNTP strives to end the injustice of educational inequality by providing excellent teachers to the students who need them most and by advancing policies and practices that ensure effective teaching in every classroom. A national nonprofit organization founded by teachers, TNTP is driven by the knowledge that effective teachers have a greater impact on student achievement than any other school factor. In response, TNTP develops customized programs and policy interventions that enable education leaders to find, develop and keep great teachers. Since its inception in 1997, TNTP has recruited or trained approximately 49,000 teachers – mainly through its highly selective Teaching Fellows programs – benefiting an estimated 8 million students. TNTP has also released a series of acclaimed studies of the policies and practices that affect the quality of the nation's teacher workforce, including *The Widget Effect* (2009) and *Teacher Evaluation 2.0* (2010). Today TNTP is active in more than 25 cities, including 10 of the nation's 15 largest.

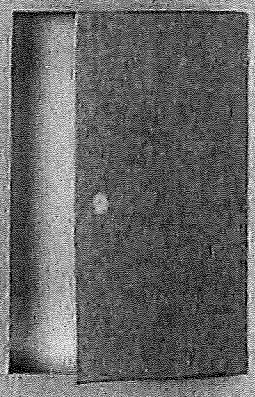
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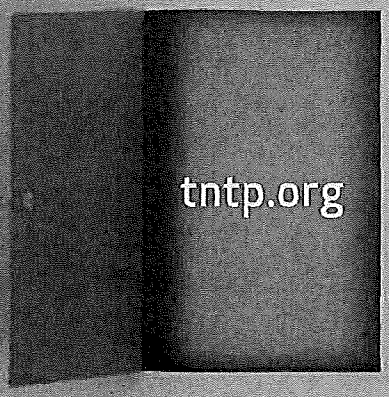
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The Economic Value of Higher Teacher Quality

Eric Hanushek

WORKING PAPER 56 • DECEMBER 2010

Exhibit 15

The Economic Value of Higher Teacher Quality

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Acknowledgements

The research presented here benefitted from extensive and insightful comments by Martin West. Valuable research assistance was provided by Lorra de la Paz. This is a revised version of a paper originally prepared for the conference on "Merit Pay: Will it Work? Is it Politically Viable?" sponsored by Harvard's Program on Education Policy and Governance, Taubman Center on State and Local Government, Harvard's Kennedy School, 2010. The author gratefully acknowledges the National Center for the Analysis of Longitudinal Data in Education Research (CALDER) funded through Grant R305A060018 to the Urban Institute from the Institute of Education Sciences, U.S. Department of Education for supporting this research.

CALDER working papers have not gone through final formal review and should be cited as working papers. They are intended to encourage discussion and suggestions for revision before final publication.

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The Economic Value of Higher Teacher Quality
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CALDER Working Paper No. 56
December 2010

Abstract

Most analyses of teacher quality end without any assessment of the economic value of altered teacher quality. This paper combines information about teacher effectiveness with the economic impact of higher achievement. It begins with an overview of what is known about the relationship between teacher quality and student achievement, which provides the basis for consideration of the derived demand for teachers which comes from their impact on economic outcomes. Alternative valuation methods are based on the impact of increased achievement on individual earnings and on the impact of low teacher effectiveness on economic growth through aggregate achievement. A teacher one standard deviation above the mean effectiveness *annually* generates marginal gains of over $400,000 in present value of student future earnings with a class size of 20 and proportionately higher with larger class sizes. Alternatively, replacing the bottom 5-8 percent of teachers with average teachers could move the U.S. near the top of international math and science rankings with a present value of $100 trillion.

Introduction

It has become widely accepted that high quality teachers are the most important asset of schools, but this recognition has not led to any consensus on the appropriate policies that should be followed to ensure that we have a good stock of teachers. The policy proposals range quite broadly, although generally they call either for closer regulation of quality or for more use financial incentives with little in between these two poles. Remarkably, these policy deliberations seldom include even the most rudimentary economic analyses or evaluations. The focus of most educational policy research and of the majority of public discussions of school policy is simply whether or not some school input has a significant positive impact on student achievement and not what it might cost or the economic benefits it might produce.[1] This paper focuses on the demand side of the teacher labor market in the United States and provides baseline estimates of the economic value of improving teacher quality.

Much of the discussion about the potential demand for teachers is framed in terms of ensuring sufficient numbers of trained teachers. This, however, is not really the issue, because the U.S. has have for a long time trained considerably more teachers than the number of positions that annually become open in schools. For example, in 2000 86,000 recent graduates entered into teaching, even though 107,000 graduated with an education degree the year before (see Provasnik and Dorfman 2005; U.S. Department of Education 2009).[2] At the same time, many have noted shortages of teachers in particular

[1] One notable exception is the long term emphasis by Henry Levin and his co-authors on comparing benefits and costs, although this has not developed much traction in policy debates. See, for example, Levin and McEwan (2001) and Belfield and Levin (2007). An early attempt at benefit-cost analysis in the case of class size reduction is found in Krueger (2002), following a conceptually similar approach to one part of the analysis below.

[2] Note that the recently graduated group entering teaching also includes a number of people who graduate with degrees other than in education, making the excess supply of education graduates even larger. Similar differentials existed throughout the 1990s, implying that the stock of trained teachers not in the teaching profession is substantial.

geographic regions or subject areas, such as math, science, or special education.[3] What usually gets left out is anything to do with quality.[4]

The analysis presented below is built on a simple premise: The key element defining a school's impact on student achievement is teacher quality. In turn, the demand for teacher quality is derived from just this impact of teachers on student outcomes. Both existing academic studies and the related policy discussions devote little thought to the economic value of outcomes, generally relying on the vague notion that higher scores on tests are better than lower scores. This analysis puts outcome gains in economic perspective.

Consideration of the economic value of teacher quality is especially relevant for the debates about performance pay for teachers and administrators. Until recently, teacher salary policies have given low priority to any consideration of merit pay, generally viewing it as a small add-on to salaries. As such, it was generally viewed as an add-on to the basic pay system and one of the first items to be eliminated at any sign of budget pressure (see, for example, Cohen and Murnane (1986)). In this context, it is useful to understand the value of keeping high quality teachers as it provides some bounds on the funding of potential pay policies to attract and retain effective teachers.

Estimates of the relevant achievement and pay-off parameters are in fact available in the literature. Moreover, the key parameters have been consistently estimated across different studies and with considerable precision. The innovation of this paper is to draw on those parameter estimates to produce plausible ranges for the underlying demand for teacher quality.

This paper begins with discussion of an overview of what is known about the relationship between teacher quality and student achievement. It then discusses the policy alternatives that have been pursued as a motivation for considering performance based policies. The central part of the paper

[3] Interestingly, these discussions have occurred over a long period of time. See Kershaw and McKean (1962).
[4] The one possible exception is attention to teachers lacking full certification. On the other hand, teacher certification has not been shown to be closely related to student achievement; see, for example, Goldhaber and Brewer (2000), Kane, Rockoff, and Staiger (2008), and Boyd et al. (2008).

is consideration of the derived demand for teachers that comes from their impact on economic outcomes.

The Central Importance of Teachers

Literally hundreds of research studies have focused on the importance of teachers for student achievement. Two key findings emerge. First, teachers are very important; no other measured aspect of schools is nearly as important in determining student achievement. Second, it has not been possible to identify any specific characteristics of teachers that are reliably related to student outcomes. Understanding these findings is central to the subsequent discussions of policies and their underlying economics.

The general finding about the importance of teachers comes from the fact that the average gains in learning across classrooms, even classrooms within the same school, are very different.[5] Some teachers year after year produce bigger gains in student learning than other teachers. The magnitude of the differences is truly large, with some teachers producing 1½ years of gain in achievement in an academic year while others with equivalent students produce only ½ year of gain.[6] In other words, two students starting at the same level of achievement can know vastly different amounts at the end of a single academic year due solely to the teacher to which they are assigned. If a bad year is compounded by other bad years, it may not be possible for the student to recover.

No other attribute of schools comes close to having this much influence on student achievement. The available estimates for, say, class size reduction do not suggest any leverage past the earliest grades of school, and then the expected effects are small. Most of the controversy about the

[5] A summary and evaluation of value-added studies that look at the influence of teachers on achievement gains is found in Hanushek and Rivkin (2010b) and discussed more thoroughly below.

[6] Hanushek (1992) finds differences of this magnitude for disadvantaged students found in Gary, Indiana. For an overview of the results of similar studies, see Hanushek and Rivkin (2010b).

impacts of class size focus on whether there is any discernible impact on student achievement (see, for example, Hanushek 1999; Ehrenberg, Brewer, Gamoran, and Willms 2001; Mishel and Rothstein 2002). Much less attention has focused on the magnitude of any effects or the costs of any reductions. The largest commonly available estimate for class size reduction comes from Project STAR, where Krueger (1999) estimates that there is a one-time increase in achievement of approximately 0.22 standard deviations from reducing class size by one-third. Clearly, reducing class size by this much (eight students per class in the Tennessee STAR experiment) would be very expensive, and the comparison must be to alternative policy approaches.[7] These issues come back into the discussion below.

The related issue is what makes for an effective or ineffective teacher. The extensive research addressing this has found little that consistently distinguishes among teachers in their classroom effectiveness. Most documented has been the finding that master's degrees bear no consistent relationship with student achievement (See Hanushek and Rivkin 2004, 2006). But other findings are equally as interesting and important. The amount of experience in the classroom – with the exception of the first few years – also bears no relationship to performance. On average, a teacher with five years experience is as effective as a teacher with 25 years of experience. But, this general result about measured characteristics of teachers goes even deeper. When studied, most evidence indicates that conventional teacher certification, source of teacher training, or salary level are not systematically related to the amount of learning that goes on in the classroom. For example, two recent high quality studies of different preparation and entry routes into teaching compare the impact on student achievement of Teach for America (TFA) and other alternative routes into teaching with traditional

[7] Krueger (1999) provides an economic analysis of class size reduction, suggesting that it is marginally cost-effective. These estimates can be compared to the estimates for teacher quality provided below.

teacher training (Boyd et al. 2006 and Kane, Rockoff, and Staiger 2008).[8] They find little differences by teacher training background.

The exception as noted is that during the first one to three years of teacher experience the typical teacher will get better at her job (see, for example, Staiger and Rockoff 2010). She will develop her craft, learn her tasks, learn classroom management, and find ways to help students learn. The existing evidence does not, however, suggest any clear way to provide this experience before entry into the classroom or to reduce the adjustments that will need to be made once in the classroom. For example, changes in teacher preparation or more extensive induction and mentoring programs, while plausibly effective policies, have yet to be shown to significantly alter the early career learning of teachers.[9] Similarly, even very intensive professional development to help teachers become more effective after they are already in the classroom has shown little impact on student achievement.[10]

The fundamental impact of teacher quality has led many policy makers to focus on the implications for the form and level of pay of teachers. The most common expression of this focus is that we should pay sufficient salaries to ensure that there are high quality teachers in all classrooms.[11] Higher salaries are viewed as a way of providing incentives to attract and retain the teacher force that we need as a country. This conclusion, however, is not as straightforward as it sounds, given the current structure of schools and labor markets for teachers and given limitations on understanding of how to identify effective teachers.

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[8] Teach for America has attracted a large amount of attention for its ability to attract very high quality entrants from the most competitive U.S. colleges and universities (see below).

[9] See the experiments in Isenberg et al. (2009). This study compares a comprehensive induction and mentoring program to "business as usual" and finds no gains.

[10] Garet et al. (2008) and Garet et al. (2010) present results of randomized evaluations of intensive professional development programs for early reading and for middle school math, respectively. Neither finds that this professional development even when combined with classroom coaching significantly affects student learning.

[11] In an international context, see for example Dolton and Marcenaro-Gutierrez (2011).

Problems with Current Teacher Policies

Existing policies on the demand side of the teacher labor market combine regulations on entry into the profession and political bargaining over salaries. These policies have not proved effective in ensuring uniformly high quality teachers, and there is little evidence that the extensions of these that have been proposed will be more effective.

Most discussion of teacher policies includes very limited attention to costs except where salary is itself the focus of discussion. In these latter discussions of salaries, moreover, little attention is given to teacher effectiveness. Performance pay has not received extensive evaluation, because the limited use of such schemes has until recently constrained researchers' ability to study alternative pay systems.

Information about alternative performance pay approaches is beginning to be accumulated. The use of performance pay has been increasing in the United States (Podgursky and Springer 2007). This increased interest has also led both to experimental studies (Springer et al. 2010). Additionally, international experimentation has led to more recent analyses (see, for example, Lavy 2009 and Muralidharan and Sundararaman 2009). For a direct cross-country analysis assessing the impact of different institutions, see Woessmann (2010). Given the level of activity in this area, information about the supply side of the market is likely to increase rapidly, but for now still remains rudimentary.

Current Certification Policies

Today's teacher policies begin almost everywhere with regulating who can enter teaching through a certification process that specifies entry requirements.[12] Yet, existing evidence indicates that using regulatory approaches to obtaining "good teachers" is extraordinarily difficult, if not impossible. The analyses of teacher characteristics give us little reason to believe that we know enough about consistent

[12] For a general discussion of teacher licensing and certification, see Goldhaber (2011).

characteristics or backgrounds of good teachers to set appropriate training and hiring standards. Specifically, the underlying idea behind most certification requirements is that we can ensure that nobody gets a bad teacher, i.e., that is possible to put a floor on quality. But doing this requires knowledge of characteristics that systematically affect performance. As noted above, however, credentials, degrees, experience, and even teacher test scores are not consistently correlated with teaching skill.[13] Thus, requirements that only fully certified teachers can enter the classroom – such as included in federal accountability legislation (No Child Left Behind Act, or NCLB)– may have little impact on student performance, even if achieved.

Nonetheless, some policy proposals argue for strengthening credentials, i.e., for making the standards higher and more rigorous. For example, some propose ensuring that *all* certified teachers have a master's degree (National Commission on Teaching and America's Future 1996). Indeed, five states including New York currently require teachers to have an earned master's degree in order to receive permanent certification; an additional 11 states require master's for optional advanced licenses (National Council on Teacher Quality 2009). But, since past evidence shows teachers with a master's degree are not on average more effective than teachers lacking such a degree, these proposals would raise the cost of becoming a teacher without a strong expectation that quality would improve.

Heightened screens for entry into teaching are also likely to be very costly. Tightening up on entry requirements typically involves increased undergraduate course requirements, perhaps requirements for a master's degree before entering into teaching, and higher test score requirements for entry into teacher training or for certification. Each of these makes entry into teaching relatively more costly. Other things equal, this would reduce the supply of potential teachers by altering choices

[13] Some attention has focused on teacher test scores as a potential indicator of teacher quality. The existing empirical evidence suggests that these scores, when available, are more correlated with student achievement than other explicit measures of teacher characteristics (Hanushek 2003). Nonetheless, the relationship is modest with less than half of the estimated parameters of teacher tests on student outcomes being statistically significant and with little of the underlying variation in teacher effectiveness being accounted for by test scores.

among existing potential teachers. Of course salary increases could offset any alterations in supply. The magnitude of the needed increase would depend on the responsiveness of prospective teachers to salary changes – something about which we currently have only rudimentary knowledge.

A variety of experiments with alternative routes to teaching have gone beyond traditional certification. Indeed, a large portion of current teachers do not come through traditional teacher training institutions (Walsh and Jacobs 2007). While these programs and their requirements vary widely, they do open the door to a broader range of individuals. The existing evidence on their success or failure is nonetheless limited. Some evidence does come from the Teach for America (TFA) program that recruits high performing graduates from generally elite colleges and universities and places them in hard-to-staff schools even though they lack traditional preparation and certification.[14] Three careful studies of the performance of the TFA teachers show generally positive results for math and equal results for reading when compared to traditionally trained teachers (see Raymond, Fletcher, and Luque 2001; Decker, Mayer, and Glazerman 2004; Xu, Hannaway, and Taylor 2009). Further, Boyd et al. (2006) and Kane, Rockoff, and Staiger (2008) compare New York City teachers who entered through different routes including Teach for America and other alternative certification programs and find little average difference in effectiveness. [15] These results do, however, cast further doubt on the idea of improving teacher quality by building on the existing certification requirements.

Current Salary Policies

The second important aspect of teacher labor markets is compensation. Standard economic models suggest that, in a competitive economy, individuals' salaries will generally be aligned to their productivity. If one firm does not pay a worker a salary that matches her value in terms of output,

[14] For a description of the program, see http://www.teachforamerica.org/.
[15] Kane, Rockoff, and Staiger (2008) additionally provide some idea of the cost trade-off of different teacher selection policies. Staiger and Rockoff (2010) evaluate much more stringent retention programs based on value-added information.

another competitive firm would pay that amount. If the firm pays the worker too much for her value, it will not be competitive with other firms and will be prone to going out of business.

Teacher labor markets, however, differ. Salaries are determined by collective bargaining between teachers' organizations and their employing school districts. School districts are not prone to going out of business if they pay the wrong amount.[16] Being public activities, schools are always subject to political forces, and the goals for school quality depend on governmental decision making about how much quality is desired. As a result, teacher salary decisions are only partially driven by the economic forces that underlie salary determination in private, competitive industries. Demand for school quality is filtered through the political process and may or may not accurately represent the true benefits and costs of varying amounts of quality, including possible externalities from quality.[17]

Perhaps the most notable recent pattern in teacher salaries is that they have fallen dramatically in relation to the rest of the economy. The changing position of teachers is clear in salary trends since the beginning of World War II. Compared to the earnings of male college graduates, the average male teacher was slightly above the 50th percentile in 1940. The average female teacher was close to the 70th percentile among college-educated females. But then male teachers fell precipitously to the bottom third of the earnings distribution for college graduates, and female teachers were below average during the 1960s and close to the relative male position by 1990. In 2000, less than 30 percent of young males and less than 40 percent of young females with a bachelor's degree earned less than the average teacher (age 20-29).[18] (Note, however, that these data do not include deferred compensation for teachers, which appears to have grown faster in teaching than in private sector employment; Podgursky 2011).

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[16] Additionally, there are questions about whether the negotiations between school boards and teacher unions are arms-length transactions. See the various discussions in Howell (2005) and particularly Moe (2005).

[17] The public demand considerations are also influenced by the fact that aggregate importance of school quality appears to exceed the private benefits – probably reflecting externalities through the development of ideas that influence economic growth. See Hanushek and Woessmann (2008, 2010).

[18] Hanushek and Rivkin (2006).

This decline in salaries is mirrored by other measures. While it is somewhat difficult to trace general measures of achievement and ability over time, it appears that teachers are drawn from deeper in the group of people going to college and that the best college graduates are not the ones going into teaching.[19]

Some analysts have focused on the current position of teachers in the wage/ability distribution as a fundamental issue driving student outcomes. Barber and Mourshed (2007), for example, identify the fact that Finland and South Korea attract top graduates into teaching as a key ingredient to their success on international tests. The source of this recruiting success is, however, unclear, because Finnish teachers are not paid high salaries (though Korean teachers are). Mourshed, Chijioke, and Barber (2010) further emphasize the importance of high level recruitment in their analysis of school systems around the world that have shown substantial improvement.

The costs of returning U.S. teachers to their former position in the salary structure are clearly enormous. While some have suggested that this would be a reasonable policy, no analysis is available to indicate what gains in teacher quality would result.

Two factors appear to be important in evaluating these salary trends. First, by most accounts the skills needed to be an effective teacher are not necessarily those needed to be successful elsewhere in the economy.[20] While there is uncertainty in this statement because we do not have any clear description of what skills are needed to be an effective teacher, we do not find for example that

[19] Hanushek and Pace (1995), Corcoran, Evans, and Schwab (2002), Bacolod (2007).

[20] The relative earnings of teachers who leave teaching has not been thoroughly investigated. Scafidi, Sjoquist, and Stinebrickner (2006) suggest that teachers do not in general move to higher paying jobs when they leave teaching. On the other hand, Chingos and West (2009) find that more effective teachers are likely to leave for better jobs.

standard measures of teacher achievement or ability are closely related to student outcomes even though it is closely related to earnings elsewhere in the economy.[21]

Second, the current structure of teacher pay enters into the political determination of salaries and appears to hold down teacher salaries. The single salary structure that pays all teachers (with the same experience and degree level) the same amount, quite likely, acts to restrain the pay of teachers. The argument from a very simple political economy model, while not fully tested, is straightforward. Since salary contracts are negotiated politically with little discipline from the market, politicians negotiating salaries must be able to defend the idea that salary increases are related to improved student outcomes. But, under the single salary schedule, teachers (with the same experience and graduate training) receive the same pay and increase, regardless of the teacher's effectiveness. This situation makes large salary increases difficult because the factors that determine pay are unrelated to teacher effectiveness in the classroom, and effective teachers would see the same salary increases as ineffective teachers.

Certainly higher levels of salaries would tend to increase the pool of potential teachers, but the impact of that on overall teacher quality depends on the ability of principals and human resource teams in districts to choose the best teachers. Existing evidence, while not definitive, suggests that schools are not very effective at choosing the best teachers among the pool of eligible applicants (Ballou (1996), Ballou and Podgursky (1997), Staiger and Rockoff (2010)).

A variant of policy discussions about salaries is to argue that the right way to set the salaries of teachers is to use the market salary for professionals in the open economy as a guide. At its heart this is simply one notion of how to determine a salary level, but it is generally unrelated to any arguments

[21] The relationship between measures of teacher test scores and student achievement proves to be very imprecise, with teacher tests generally being statistically insignificant in educational production functions and with variations in teacher tests explaining little of the variance in teacher effectiveness; see Hanushek (2003). At the same time, as discussed below, there are strong rewards to individual achievement in the general labor market.

about the productivity of people in alternative occupations or about the relative attractiveness of different occupations. To the extent that the overall compensation levels of teachers would be raised by such calibration to other professions without affecting the distribution of pay across teachers, it is subject to the same questions as the previous arguments about restoring relative pay.

There is one aspect of this that has specific relevance, however. It is unclear precisely which professional occupations would provide the appropriate comparison. If the standard is privately employed professionals – say, lawyers, doctors, and accountants in private employment – a feature of the comparison is the overall structure of employment. Most private professionals have their salaries set much more in line with their individual productivity, so that these occupations have much large discrepancies in salaries and have noticeably higher employment risks than are found in teaching. Thus, even if the comparison set of alternative professions were clear, the appropriate way to compare salaries under different employment conditions is not.

A significant feature of virtually all existing discussions of teacher salaries, however, is the absence of any linkage to quality as seen through student outcomes. Certainly discussions of quality are used to motivate salary considerations, but little of the existing analysis is very relevant.

What is the Economic Value of Quality Teachers?

An alternative way to think of the salaries for teachers is to consider the derived demand for quality teachers, because that is a way to assess the range of salary options politicians might reasonably consider. The simplest way to value effective teachers is to note that the demand for teachers can be derived from the demand for their product – educated students. For the most part, teacher demand has never been evaluated in terms of the potential gains for students, implied by the economic value of

better performance. Such evaluations, however, provide some idea of the social value of highly effective teachers, even if they do not necessarily pinpoint the efficacy of particular salary structures.[22]

The Demand Side Based on Expected Student Earnings

Consider the economic returns to a student that follow having greater cognitive skills. In fact, these returns have been frequently estimated through empirical analyses of the earnings gains from increased skills. The most common estimation begins with a standard Mincer earnings model with the addition of a measure of cognitive skills (CS) such as:

(1) $$\ln Y_i = \alpha_0 + rS_i + \alpha_1 Exper_i + \alpha_2 Exper_i^2 + \phi CS_i + \varepsilon_i$$

where Y_i is earnings of individual i, *S* is school attainment, *Exper* is potential labor market experience, and ε is a random error. When cognitive skills are standardized to mean zero and standard deviation of one, ϕ is interpreted simply as the percentage increase in annual earnings that can be attributable to a one standard deviation increase in achievement. This will understate the full impact of achievement to the extent that higher achievement leads to higher levels of schooling, but that is generally not considered.[23]

Three parallel U.S. studies provide very consistent estimates of the impact of test performance on earnings (ϕ) for young workers (Mulligan 1999; Murnane, Willett, Duhaldeborde, and Tyler 2000; Lazear 2003). These studies employ different nationally representative data sets that follow students after they leave school and enter the labor force. When scores are standardized, they suggest that one

[22] Chetty et al. (2010) note the analogy to pay for CEOs, where their ability to create or destroy significant value does not dictate the optimal form of contract incentives.

[23] Murnane, Willett, Duhaldeborde, and Tyler (2000) is an exception for tracing through the indirect effects. See also the discussion of the form of estimation in Hanushek and Zhang (2009).

standard deviation increase in mathematics performance at the end of high school translates into 10-15 percent higher annual earnings.[24]

Murnane, Willett, Duhaldeborde, and Tyler (2000) provide evidence from the High School and Beyond and the National Longitudinal Survey of the High School Class of 1972 (NLS72). Their estimates suggest that males obtain a 15 percent increase and females a 10 percent increase per standard deviation of test performance. Lazear (2003), relying on a somewhat younger sample from National Educational Longitudinal Study of 1988 (NELS88), provides a single estimate of 12 percent. These estimates are also very close to those in Mulligan (1999), who finds 11 percent for the normalized AFQT score in the National Longitudinal Study of Youth (NLSY) data. Note that these returns can be thought of as how much earnings would increase with higher skills every year throughout the persons' working career. The estimates do, however, come early in the worker's career, suggesting the impact may actually rise with experience.[25]

Altonji and Pierret (2001) consider the possibility of statistical discrimination that leads to increased returns to cognitive skills over time. Specifically, when young workers first go to an employer, it is difficult for the employer to judge the skills of the worker. Over time, the employer can more accurately assess the skills of the worker, and, if worker skills are related to cognitive skills as measured by the tests, the returns to test scores will rise with experience. Their analysis supports the idea that these estimated returns to skills could be an understatement, with the returns to cognitive skills rising and the returns to school attainment falling with labor market experience. When the model was tested

[24] It is convenient to convert test scores into measures of the distribution of achievement across the population. A separate review of the normalized impact of measured cognitive skills on earnings by Bowles, Gintis, and Osborne (2001) finds that the mean estimate is only 0.07, or slightly over half of the specific studies here.

[25] These estimates are derived from observations at a point in time. Over the past few decades, the returns to skill have risen. If these trends continue, the estimates may understate the lifetime value of skills to individuals. On the other hand, the trends themselves could change in the opposite direction. For an indication of the competing forces over a long period, see Goldin and Katz (2008).

across countries, however, it seemed most important for the United States but not for other countries (see Hanushek and Zhang 2009).

In a different set of estimates using data on a sample of workers for the U.S., Hanushek and Zhang (2009) provide estimates of returns (ϕ) of 20 percent per standard deviation. One distinguishing feature of these estimates is that they come for a sample of workers throughout the career, as opposed to the prior estimates that all come from early-career earnings.[26]

Using yet another methodology that relies upon international test scores and immigrants into the U.S., Hanushek and Woessmann (2009) obtain an estimate of 14 percent per standard deviation. That analysis begins with a standard Mincer earnings model but estimates the returns to skills from a difference-in-differences formulation based on whether the immigrant was educated in the home country or in the United States. They find that skills measured by international math and science tests from each immigrant's home country are significant in explaining earnings within the United States.

Finally, Chetty et al. (2010) look at how kindergarten test scores affect earnings at age 25-27 and find an increase of 18 percent per standard deviation. These estimates do not control for any intervening school attainment differences but do control for a rich set of parental characteristics.

The finding that moving a standard deviation in cognitive skills yields 10-20 percent higher income may sound small, but these increments apply throughout the lifetime. In 2010, the average present value of income for fulltime, full-year workers age 25-70 is $1.16 million.[27] Thus, one standard deviation higher performance even at a low return of 13 percent per standard deviation amounts to over $150,000.

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[26] The data from the International Assessment of Adult Literacy (IALS) provide both tests of reading and numeracy skills but also assess a range of adult workers. The estimates in Hanushek and Zhang (2009) come, like the previously mentioned studies, from adding cognitive skills to a standard Mincer earnings function. But that paper also discusses alternative ways to obtain estimates of the schooling gradient (r in equation (1)).

[27] Calculations use average income by age for all fulltime, full-year workers in the labor force in the first quarter of 2010. It is assumed that incomes rise 1 percent per year because of overall productivity improvements in the economy and that future incomes are discounted at 3 percent.

These estimates of the labor market returns to higher cognitive skills can be merged with evidence about variation in teacher effectiveness to calculate the derived demand for teacher quality. The basic approach to estimating teacher effectiveness begins with a model of student achievement (A) for student i in grade g as a function of lagged achievement, a fixed effect for each teacher (δ_j), and other factors (*X*) that might affect performance as in:

(2) $$A_{it} = (1-\theta)A_{it-1} + \delta_j + \beta X_i + \nu_{it}$$

A central issue in past estimation has been identifying the standard deviation of teacher effectiveness from variations in δ_j . A key additional parameter is θ, which indicates the depreciation rate on prior learning, because this indicates how much of the learning attributable to a teacher carries over after the student leaves the classroom.

Hanushek and Rivkin (2010b) review recent estimates of the standard deviation in teacher quality (σ_w), and their estimates are reproduced in Table 1.[28] These estimates, however, look at the variations in teacher effectiveness found within schools (hence the subscript w) and do not include any differences between schools.[29] The average within school variation in recent studies is 0.17 s.d. for math and 0.13 s.d. for reading. The focus on within school variance reflects a concern about identifying teacher quality as opposed to unobserved differences among students and families who have selected their school, largely through residential location.

For the subsequent estimation of the impact of teacher quality, an estimate of the total variation of quality (σ_T) is used. In reality, because of difficulties in identifying the between-school variance in quality, the subsequent analysis relies on bounds the plausible values of total variation. A

[28] Estimation of σ is actually done in a variety of ways and frequently makes some effort to eliminate biases and measurement error. See Hanushek and Rivkin (2010b).

[29] Note that all estimates are corrected for measurement error and, except for Kane and Staiger (2008), rely on just the within school variation in teacher effectiveness.

lower bound of 0.2 s.d. is used and is matched with a plausible upper bound of 0.3 s.d.[30] In this, teacher effectiveness is measured in terms of standard deviations of student achievement. Thus, a teacher who is one standard deviation above the mean to the distribution of teachers in terms of quality (i.e., comparing the 84th percentile teacher to the 50th percentile teacher) is estimated to produce marginal learning gains of 0.2-0.3 standard deviations of student achievement compared to the average teacher.[31]

As a base case, consider a teacher who is 0.5 s.d. above average in the teacher effectiveness distribution (i.e., at the 69th percentile), and this level of effectiveness is maintained across school years. She would, according to the above estimates, annually lead to a 0.1 s.d. average improvement in cognitive skills of her students (assuming that the standard deviation of teacher effectiveness in units of student achievement is 0.2 s.d.).

The implication for earnings depends on the persistence of this learning into the future and how this increased learning in any given year carries through into the labor market. The baseline calculations presume that 70 percent of the added learning persists into the future, i.e., that θ in Equation (2) is 0.3. The 70 percent persistence of the annual growth in achievement comes from standard estimates of depreciation of learning in educational production functions, but this is subject to uncertainty. First, the estimates of θ can be directly influenced by differences in tests across grades, by test measurement errors, and other nonlearning matters. Second, while estimates of θ are not always reported in the relevant empirical literature, there is a clear distribution of estimates in the literature. θ=0.3 is roughly consistent with estimates in Hanushek (1971, 1992), Armor et al. (1976), and Boyd et al. (2006). Hanushek, Kain, and Rivkin (2009) find estimates closer to 0.4. Kane and Staiger (2008) find estimates of depreciation near 0.5 (with large standard errors) for math, but lower in language arts. The estimates of

[30] Comparisons of estimated variations within and between schools can be found in Hanushek and Rivkin (2010a).
[31] In terms of the student achievement distribution, this would move a student from the 50th percentile to the 58th to 62nd percentile.

Jacob, Lefgren, and Sims (2010) for the teacher component of persistence are significantly lower than this with θ in the range of 0.7- 0. Chetty et al. (2010) find that kindergarten scores carry through to young adult earnings – suggesting a much higher persistence of early skills – even though later test scores for students do tend to fade. As a result of this imprecision, the impact of larger depreciation than that in the baseline is also investigated in the subsequent sensitivity analysis.

It is now possible to calculate the value of an above average teacher in terms of effectiveness. Combining the improvement in scores for an individual with a conservative estimate of an impact on future individual earnings of 13 percent per standard deviation of achievement yields a present value of $10,600 over a lifetime of work for the average worker.

But this is not yet the full impact of the above average teacher. The impact on one student is replicated across all of the other students in the class. Thus, calculation of the impact of a teacher depends directly on class size. Table 2 provides the calculated economic value of teachers at different points in the distribution and with different class sizes. Figure 1 displays the impact of different quality teachers according to class sizes at varying percentiles of the distribution.[32] A teacher who is at the 60th percentile (0.25 s.d. above average) raises individual earnings by $5,292, and this translates into a present value of $105,830 for a class size of 20 students. A teacher who is one standard deviation above the mean (84th percentile) produces over $400,000 in added earnings for her class of twenty.[33]

The first thing to note is that this is an *annual* increment by the teacher. Any teacher who stays at the given level of performance produces such an amount each year.

[32] None of these estimates introduce any possible offset that would some from direct class size effects. The magnitude of any such effects has been controversial and does not readily permit explicit analysis; see, for example, Hanushek (1999), Krueger (1999), Mishel and Rothstein (2002).

[33] Chetty et al. (2010), extrapolating from their data on early career earnings, estimate the impact of a high quality teacher at about $214,000 per class of 20 for a teacher one s.d. above the mean. This is very close to the lower bound estimate in Table 3.

The second thing to note from the bottom half of Figure 1 is that a below average teacher leads to a similar decrease in lifetime earnings.[34] Thus, having an effective teacher followed by an equally ineffective teacher will cancel out the gains.

The precise marginal economic value depends crucially on the three parameters of the teacher distribution and of how achievement evolves over time and affects earnings: $\sigma_T = 0.2$; $\phi = 0.13$; and $\theta = 0.3$. It is useful to see how the specific baseline parameters affect the results when we use alternative but plausible values.

The impact of the different parameters is straightforward. A lower depreciation rate (higher persistence of achievement), a wider distribution of the teacher effectiveness distribution, and a larger labor market payoff to skill lead to a larger economic value of teacher effectiveness. All of the prior estimates were based on rather conservative estimates of σ_T, the variation in teacher effectiveness; one standard deviation in teacher effective translates into 0.2 standard deviations in annual student growth. As indicated, a plausible upper bound on the variations in effectiveness would be 0.3 standard deviations in annual student growth, which would be consistent both with the larger estimates in Table 1 and with a more significant between-school variation in effectiveness. Additionally, the return to skill of $\phi = 0.13$ most closely mirrors the labor market estimates for young workers and for time periods in the past when the demand for skill was less. More recent estimates and consideration of the full age range of workers yields larger estimates, suggesting that $\phi = 0.2$ is a plausible upper bound on the estimates. The baseline estimates do use a depreciation rate of 0.3, whereas a subset of existing production function estimates suggest larger depreciation, particularly of achievement gains induced by the teacher. We thus also look at $\theta = 0.6$, or a depreciation rate that is twice as large.

[34] The decrease is slightly different because the estimates come from Mincer earnings functions which relate the logarithm of earnings to the level of cognitive skills and thus to a slight different percentage change when evaluated at a different place in the distribution.

Table 3 presents alternative estimates of marginal impacts evaluated at one point in the teacher distribution – one standard deviation above the mean, or the 84th percentile. Compared to the baseline, a higher depreciation rate on achievement obviously lessens the impact of teacher quality on earnings, because this effectively reduces the impact of different teachers. Nonetheless, even at the lower bound in column (1) of the table defined by the previous quality and earnings parameters (σ_T and ϕ) but higher depreciation (θ), a good teacher with a class of 15 annually produces $182,000 more in present value than the average teacher. If we scan across the marginal annual economic value of a good teacher (compared to the average) evaluated at a given class size – say 20 students per class – we see that the parameters do make a large difference in the estimated impact. The annual economic value with class size of 20 ranges from a quarter of a million dollars to a million dollars at the top of the range for the three parameters together. (The final column is an upper bound on estimates based on current empirical work).

While the difference in estimates across the parameters is large, the more striking feature of the table is the magnitude of the lower bound. A teacher in the top 15 percent with a class of 20 or more students yields at least $240,000 in economic surplus each and every year compared to an average teacher.

As suggested, the persistence of the annual teacher effects implied by these estimates is an open question. All of the calculations in Figure 1 presume that 70 percent of a teacher's addition to knowledge carries over permanently (except as modified by subsequent school and family inputs). In reality, maybe all carries over, or maybe only a small part carries over. A host of unknown factors – including compensatory behavior of parents and schools, the cumulative nature of skills, the specific attributes valued in the labor market, and the nature of peer-classroom interactions come into play in determining the long run impact of specific teachers. But even twice the depreciation of achievement

that was used in the baseline yields very large estimates of the value of an effective teacher – say, $150,000 per year present value for a 75th percentile teacher with a class of 20 students.

The Demand Side Based on Aggregate Economic Growth

An alternative way of estimating the derived demand for effective teachers focuses on the impact of student performance on economic growth. Recent analysis has demonstrated a very close tie between cognitive skills of a country's population and the country's rate of economic growth (see the review in Hanushek and Woessmann (2008)). In particular, countries that perform better on international math and science tests have stronger growth of their economies. These analyses suggest that the aggregate impact of increased skills is noticeably larger than the individual impact from the prior calculations.[35]

The magnitude of the effects is truly large. For the United States, Hanushek and Woessmann (2010) calculate that the present value of increased Gross Domestic Product (GDP) from improving scores by 0.25 standard deviations would be $44 trillion.[36] To get some idea of what a difference of 0.25 s.d. on the international tests means in substantive terms, it is useful to note that Canada is

[35] The precise reasons for the larger estimates of aggregate effects compared to the micro effects from individual earnings are not clear. These estimates are consistent with substantial externalities from higher cognitive skills, but independent estimates of these are unavailable. The macro estimates reported here assume an endogenous growth formation such that increased cognitive skills translate into permanently higher rates of long run growth in GDP per capita. An alternative neoclassical version would relate increased skills to increased factor endowments, leading to movement to a higher level of income but one with the pre-reform rate of long run growth. This latter model yields somewhat smaller estimates of the economic gains, but they remain at 70 percent of endogenous growth model and still considerably above what would be estimated from the individual earnings parameters. The alternative approaches to estimation is discussed in Hanushek and Woessmann (2008, (2010).

[36] The key assumptions, described in detail in Hanushek and Woessmann (2010), are that future growth follows the patterns of growth for 1960-2000, that school improvement takes 20 years and that the higher skilled people replace existing workers as they retire after a 40 year career, and that present values are calculated through 2090 using a 3 percent discount rate.

approximately 0.4 s.d. ahead of the U.S. and that Finland – the current world leader – is approximately 0.58 s.d. ahead.[37]

Now consider what would be possible if we could eliminate the bottom end of the teacher quality distribution and replace these teachers with average teachers. Following the estimates in Hanushek (2009), it is possible to bound the increases in overall performance that could be expected from school improvement. Using the reasonable estimates (above) of variations in teacher effectiveness as measured by achievement growth—specifically, 0.20 to 0.30 sd.—it is possible to see the impact of the least effective teachers.

Figure 2 plots the impact on overall student learning of "deselecting" (i.e., moving out of the classroom) varying proportions of ineffective teachers and replacing them with an average teacher. These calculations come from using the prior variance estimates to judge the impact of truncating the distribution. The analysis applies to all teachers, so it can be thought of improving the effectiveness of teachers throughout the system. As such, it is assumed that the quality of teachers reinforces any gains that students make and the impacts of good instruction are not assumed to die out as the student progresses to a higher grade. Instead later teachers build upon the stronger average achievement of all children and set their instruction accordingly.

The figure shows upper and lower bounds on the improvements corresponding to standard deviations of 0.3 and 0.2, respectively. The wider the distribution of teacher effectiveness the greater is the improvement from eliminating the bottom tail of the distribution. As an example, consider what would happen to average student performance if we could eliminate the least effective 5 percent of teachers from the distribution. The estimates of the impact of teachers on student achievement indicate

[37] These variations come from math performance on the 2006 tests in the Programme for International Student Assessment, or PISA (see summary data in Organisation for Economic Co-operation and Development 2010). There are some variations in average country scores over time and across subjects, but these do not affect the calculations here.

that students would on average gain 0.28–0.42 s.d. of performance by the end of their schooling, depending on the bounds of the teacher quality estimates.

These estimates of the importance of teacher quality permit some calculations of what would be required to yield various improvements in student performance. To begin with, consider what magnitude of teacher deselection might yield an improvement in student performance to the level of Canada (0.4 s.d. of student achievement). Figure 2 shows that eliminating the least effective 5-8 percent of teachers would bring student achievement up by 0.4 s.d. If the upper bound on teacher effectiveness, corresponding to larger differences in effectiveness, is appropriate, replacing the bottom 8 percent of teachers with an average teacher would bring the U.S. up to the level of Finland.

The estimates of the growth impacts of bringing U.S. students up to Finland imply astounding improvements in the well being of U.S. citizens. The present value of future increments to GDP in the U.S. would amount to $112 trillion (Hanushek and Woessmann 2010). These returns dwarf, for example, all of the discussions of U.S. economic stimulus packages related to the 2008 recession ($1 trillion).

The estimates are so large for two reasons – the U.S. is currently far from Finland in achievement and the U.S. economy is very large. The increase in achievement for the U.S. would, according to historic growth patterns, lift the annual U.S. growth rate by over one percent.[38]

Costs and the Timing of Benefits

It is clear from the prior calculations that improvements in teacher effectiveness would lead to very large economic gains. The estimates of the economic gains are all put in terms of present values, but

[38] These estimates, particularly for the U.S., are sensitive to the assumptions about the form of the growth model. Under the neoclassical model, the low achievement of the U.S. is consistent with its currently being above its long run income level. The U.S. is presumed to be one of the prime contributors to the growth of the technological frontier, but the lower implied growth under this model would still yield a present value of economic improvement from achievement at the Finnish level of $62 trillion.

they do not accrue for some years into the future. The estimates of individual earnings gains cover the entire work life of a current student. The estimates of the economic gains to the nation consider gains across the entire lifetime for somebody born today.

But it is not appropriate to presume that these changes occur without cost. At a very simple level, if 5-10 percent of teachers were deselected, the risk of entering a teaching career would increase, and it is natural to presume that salaries would have to rise to offset this increase in risk. More generally, it is necessary to consider how it might be possible to finance monetary incentives for altering the current teacher workforce. If there are fiscal restraints on governments, say from lowered tax revenues during recessionary periods, it would be important to find financing within the current operating budgets for schools.

The current structure of salaries for teachers pays bonuses for advanced degrees and for added teaching experience. Over time, the teachers with advanced degrees have increased as a proportion of the teacher force. Less than a quarter of all teachers having a master's degree or more in 1960, but in 2007 over half of all teachers had some sort of advanced degree.[39] Against this increase, as indicated previously, few studies have suggested that having a master's degree implies higher effectiveness. Similarly, median experience has progressively increased since 1960, and currently over 85 percent of teachers have more than three years of teaching experience. Again, little evidence indicates that experience after the first few years has any systematic impact on performance.[40]

The important thing about this increase in teacher education levels and in teacher experience is that salaries rise with these factors even though they have no systematic influence on student achievement. Figure 3 shows average teacher salaries by degree and years of experience.[41] A teacher with 25 years of experience earns 35 percent more than a teacher with 5 years of experience. The

[39] Information on teacher degrees and experience is found in U.S. Department of Education (2010), Table 68.
[40] See Hanushek (2003) and, more recently, Chingos and Peterson (forthcoming).
[41] The information on salaries is found in U.S. Department of Education (2010), Table 74.

average teacher with a master's degree earns 18 percent more than a teacher with just a bachelor's degree. But, neither higher levels of experience nor advanced degrees are related to teacher effectiveness.

In 2008, 9.5 percent of total teacher salaries went to bonuses for advanced degrees, while 27 percent of total salaries went for experience bonuses for teachers with greater than two years of experience. Eliminating or reducing these bonus payments for unproductive background characteristics of teachers could obviously free up substantial amounts of funds that could be re-directed toward policies to improve the quality of teachers. The national expenditure in 2007 on bonuses for advanced degrees amounted to approximately $19 billion.[42] The total bonuses for teacher experience are roughly three times as large.

The larger problems may nonetheless revolve around the political costs of any reforms. The previous calculations suggest that considerable value could accrue to improving the quality of teachers. Yet the pattern of benefits implies that they are achieved far in the future, long after much of the initial costs for reform must be paid and beyond the electoral period for most politicians. Many politicians have in fact pursued school improvement, and spending on schools has risen sharply over the five decades (Hanushek and Lindseth 2009). The policies introduced have, however, been ones that have direct benefits to current school personnel, such as reduced class size or higher overall salaries, although these policies have not been ones that have led to higher student achievement. Moving to alternate policies such as differential retention and performance pay of teachers involves greater political costs because these policies are generally not supported by the teacher unions.

[42] Total expenditure on instructional salaries in public schools in 2007 was $197 billion, not counting any benefits and any degree bonuses to administrators or those providing instructional staff services. See U.S. Department of Education (2010), Table 180.

Policy Conclusions

The key to interpreting the prior calculations is to recognize that they flow directly from increasing teacher effectiveness. They do not flow from increased teacher salaries unless such salaries are used to attract and retain more effective teachers. This paper has concentrated on the demand side of the teacher labor market. The underlying idea is that knowing the impact of teacher quality on economic outcomes provides immediate information about what kind of rational changes in teacher incentives and salaries are economically desirable. Unfortunately, we know little about the supply function for teacher quality.[43] Thus, it is not possible to predict what kinds of pay changes would be needed to ensure any given quality of teacher force.

The standard arguments for performance pay suggest the potential value of differential pay based on effectiveness in the classroom. We actually have little empirical evidence about how to structure any such pay systems or about what the effects might be.[44] The evidence presented in this paper simply suggests that the economically appropriate rewards for particularly effective teachers in the context of a performance pay plan could be very large.

The foregoing analysis has also implicitly suggested an alternative approach to simple performance pay that could be more cost effective. If there is an accurate screen on teacher effectiveness, many of the properties of a performance pay scheme can be achieved by eliminating low performing teachers and paying the remaining teachers higher but relatively flat salaries.

The policy of eliminating the least effective teachers is very consistent with the McKinsey analysis of the policies found in high-performing school systems around the world (Barber and

[43] There are actually different ways to think about the supply function of teacher quality. One can put the supply of quality into terms related to salary arguments, where selection of teachers in both hiring and retention decisions is central. On this score, no systematic research exists. Alternatively, one could relate quality to the effort made by existing teachers. This focus is central to the early work on merit pay (e.g., Murnane and Cohen (1986)), but has also been the key element of more recent evaluations such as Lavy (2002, (2009) and Muralidharan and Sundararaman (2009). See also the review of performance incentives in Lavy (2007).

[44] A discussion of current pay schemes can be found in Podgursky and Springer (2007). See also the various discussions in Springer (2009).

Mourshed 2007). Their analysis suggests that the best school systems do not allow ineffective teachers to remain in the classroom for long. These conclusions are also consistent with more U.S. evidence, such as that for New York City, in Kane, Rockoff, and Staiger (2008) and the related policy prescriptions in Gordon, Kane, and Staiger (2006) and Staiger and Rockoff (2010).

Policies of making active performance-based decisions on retention and tenure are uncommon in the current school system. A number of states have laws and regulations that lead to tenure decisions as early as two years into a teacher's career, with the mode being just three years (National Association of State Boards of Education 1997, National Council on Teacher Quality 2007). On top of that, the teacher evaluation process is typically very cursory (Toch and Rothman 2008). There is also evidence that common evaluation criteria identify very few teachers as being anything but very good (Weisberg, Sexton, Mulhern, and Keeling 2009).These realities are inconsistent with the goal of providing a quality education to all students, because some students must necessarily be relegated to these ineffective, and damaging, teachers.

The consideration of the impact of the most ineffective teachers suggests substantial economic gains from instituting policies to identify the most ineffective teachers and to move them out of the classroom. Developing such policies, negotiating them with teachers, and implementing them in the schools would clearly take time. It would also require both severance packages for those deselected and higher pay for those who would then have a more risky job.

But there are also other policies that are suggested by the economic aspects of teacher quality. Specifically, it is important to consider the significant interaction between teacher effectiveness and class size – since all of the impacts on individuals are magnified across entire classrooms. A simple conclusion from the estimates is that, even without eliminating any teachers, the most effective teachers should be assigned larger classes and the least effective should be assigned smaller classes. In that way, the aggregate impact of less effective teachers is lessened, and the more effective teachers

are better utilized. Of course, any direct impacts of altered class size would be relevant, but the existing research makes it difficult to include that in any systematic manner. Further, the more effective teachers might react badly to having larger classes, which in turn require more work. Indeed anecdotal evidence suggests that schools may try to do the opposite. If pay is completely constrained, schools may reward the better teachers by giving them smaller classes. These concerns could be eliminated if teachers are paid a portion of their economic returns.

In the end, there is ambiguity in policy because we have never been able to effectively evaluate what the supply function for teacher quality looks like. This lack of information could, of course, be eliminated by a set of pay experiments. Unfortunately, the current negotiated pay alternatives do not seem to be providing much information – in part because they imply salaries that are relatively insensitive to effectiveness.

The bottom line remains that much higher teacher salaries would be economically justified if salaries reflected teacher effectiveness more closely. Without that linkage, we should expect our schools to underperform, and we might also expect teacher salaries to lag those in the general labor market.

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Tables

Table 1. Estimates of Within School Variation in Teacher Effectiveness (σ_w)

Study	Location	Test subject	
		reading	math
Rockoff (2004)	New Jersey	0.10	0.11
Nye, Konstantopoulos, and Hedges (2004)	Tennessee	0.26	0.36
Rivkin, Hanushek, and Kain (2005)	Texas	0.15	0.11
Aaronson, Barrow, and Sander (2007)	Chicago		0.13
Kane, Rockoff, and Staiger (2008)	New York City	0.08	0.11
Jacob and Lefgren (2008)	Undisclosed city	0.12	0.26
Kane and Staiger (2008)	Los Angeles	0.18	0.22
Koedel and Betts (2009)	San Diego		0.23
Rothstein (2010)	North Carolina	0.11	0.15
Hanushek and Rivkin (2010a)	Undisclosed city		0.11
AVERAGE		**0.13**	**0.17**

Note: All estimates indicate the standard deviation of teacher effectiveness in terms of student achievement standardized to mean zero and variance one. All variances are corrected for test measurement error and except Kane and Staiger (2008) are estimated within school-by-year or within school-by-grade-by-year. Corrected reading estimates included for Rivkin, Hanushek, and Kain (2005).

Source: Hanushek and Rivkin (2010b)

Table 2. Baseline Marginal Annual Economic Value Based on Student Lifetime Incomes

$(\sigma_T = 0.2; \phi = 0.13; \theta = 0.3)$

	Teacher effectiveness as s.d. from mean (percentile)					
class size	0.25 (60th)	0.5 (69th)	0.75 ((77th)	1.0 (84th)	1.25 (89th)	1.5 (93rd)
5	$26,458	$53,036	$79,735	$106,556	$133,500	$160,566
10	$52,915	$106,071	$159,470	$213,113	$267,000	$321,132
15	$79,373	$159,107	$239,205	$319,669	$400,499	$481,698
20	$105,830	$212,143	$318,941	$426,225	$533,999	$642,264
25	$132,288	$265,179	$398,676	$532,781	$667,499	$802,831
30	$158,745	$318,214	$478,411	$639,338	$800,999	$963,397

Note: θ =depreciation rate ; σ_T =standard deviation of teacher quality; ϕ = labor market return to one standard deviation higher achievement.

Table 3. Sensitivity of Demand Based on Earnings to Key Parameters

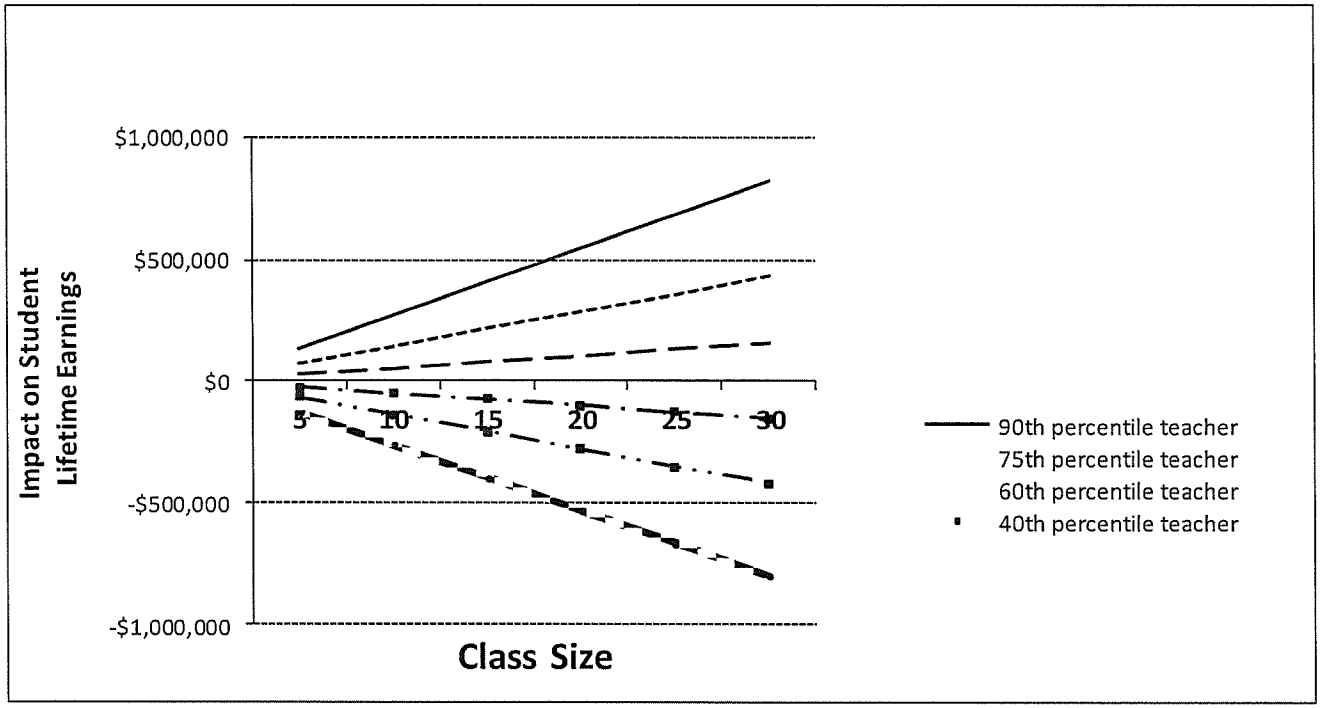
(marginal annual economic value of teacher one standard deviation above mean)

	$\theta = 0.6$				$\theta = 0.3$			
	$\sigma_T = 0.2$		$\sigma_T = 0.3$		$\sigma_T = 0.2$		$\sigma_T = 0.3$	
class size	$\phi = 0.13$	$\phi = 0.2$	$\phi = 0.13$	$\phi = 0.2$	$\phi = 0.13$	$\phi = 0.2$	$\phi = 0.13$	$\phi = 0.2$
5	$60,652	$93,573	$91,215	$140,923	$106,556	$164,741	$160,566	$248,858
10	$121,303	$187,145	$182,430	$281,847	$213,113	$329,482	$321,132	$497,715
15	$181,955	$280,718	$273,645	$422,770	$319,669	$494,223	$481,698	$746,573
20	$242,607	$374,290	$364,860	$563,693	$426,225	$658,964	$642,264	$995,431
25	$303,259	$467,863	$456,075	$704,617	$532,781	$823,706	$802,831	$1,244,288
30	$363,910	$561,435	$547,290	$845,540	$639,338	$988,447	$963,397	$1,493,146

Note: θ =depreciation rate ; σ_T =standard deviation of teacher quality; ϕ =labor market return to one standard deviation higher achievement.

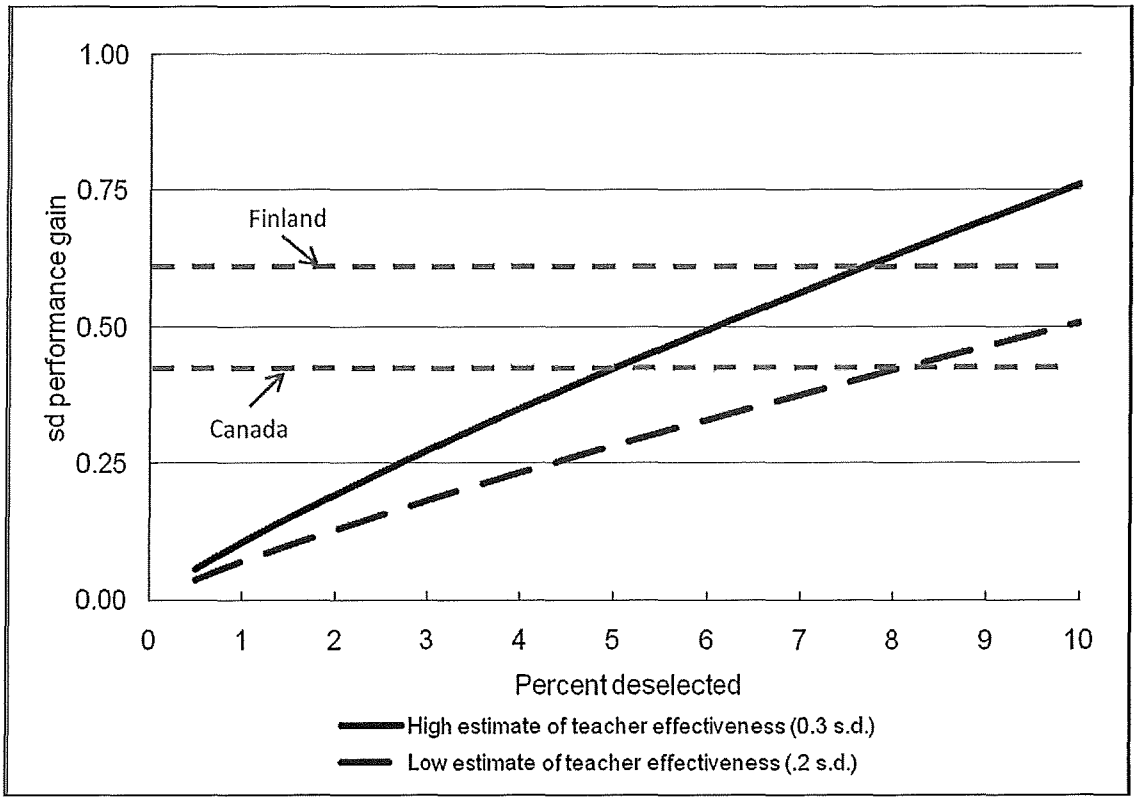
Figures

Figure 1. Impact of Student Lifetime Incomes by Class Size and Teacher Effectiveness (Compared to Average Teacher)



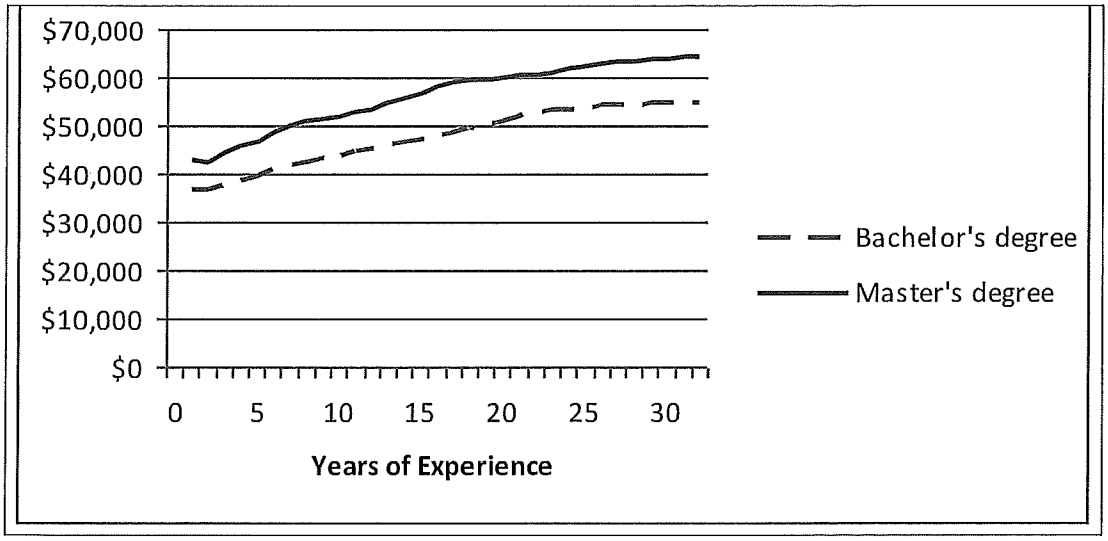
Source: Author calculations.

Figure 2. Alternative Estimates of How Removing Ineffective Teachers Affects Student Achievement

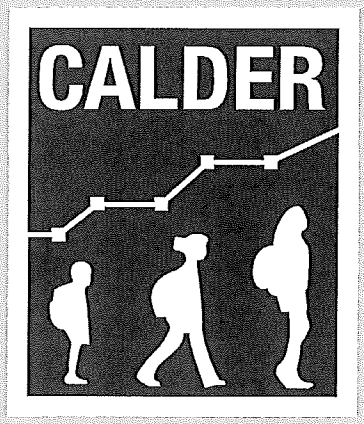


Source: Author Calculations

Figure 3. Average Teacher Salary by Degree and Experience, 2007



Source: U.S. Department of Education (2010), Table 74


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No. 70 August 2012 | CIVIC REPORT

TRANSFORMING TENURE: Using Value-Added Modeling to Identify Ineffective Teachers

Marcus A. Winters
Senior Fellow, Manhattan Institute

Published by Manhattan Institute

CSLL
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AT THE MANHATTAN INSTITUTE

Exhibit 16

Executive Summary

Public school teachers in the United States are famously difficult to dismiss. The reason is simple: after three years on the job, most receive tenure—after a brief and subjective evaluation process (typically, a classroom visit or two by an administrator or another teacher) in which few receive negative ratings. Once tenured, teachers are armored against efforts to remove them, and most do not face any serious reevaluation to ensure that their skills stay up to standard. With this traditional approach, tenured teachers sometimes lose their positions for insubordination, criminal conduct, gross neglect, or other reasons—but almost never for simply being bad at the job.

This state of affairs protects teachers (both good and bad) quite well but is clearly harmful to students. The effects of a poor teacher, research has shown, haunt pupils for years afterward. Being assigned to such a teacher reduces the amount that a student learns in school and is associated with lower earnings in adulthood (in part because having an inadequate teacher makes a child more likely to have an early pregnancy and less likely to go to college). An education system that protects bad teachers does a grave disservice to the children in its care.

In recent years, some school districts have experimented with changes in tenure rules. They seek the power to remove ineffective teachers and, in some jurisdictions, to reevaluate teachers throughout their careers.

A keystone of this reform movement is the replacement of subjective evaluation with quantifiable measures of each teacher's effectiveness. The quantitative method is known as value-added modeling (VAM), a statistical analysis of student scores that seeks to identify how much an individual teacher contributes to a pupil's progress over the years. The use of VAM in teacher evaluations is growing, but the method remains extremely controversial. Critics often claim that it does not and cannot measure actual teacher quality.

This paper addresses that claim. Part I analyzes data from Florida public schools to show that a VAM score in a teacher's third year is a good predictor of that teacher's success in his or her fifth year. Having established that VAM is a useful predictive tool, Part II of the paper addresses the most effective ways that VAM can be used in tenure reform.

VAM is not a perfect measure of teacher quality because, like any statistical test, it is subject to random measurement errors. So it should not be regarded as the "magic bullet" solution to the problem of evaluating teacher performance. However, the method is reliable enough to be part of a sensible policy of tenure reform—one that replaces "automatic" tenure with rigorous evaluation of new candidates and periodic reexamination of those who have already received tenure.

About the Author

Marcus A. Winters is a senior fellow at the Manhattan Institute and an assistant professor at the University of Colorado Colorado Springs. He conducts research and writes extensively on education policy, including topics such as school choice, high school graduation rates, accountability, and special education. Winters has performed several studies on a variety of education policy issues including high-stakes testing, performance-pay for teachers, and the effects of vouchers on the public school system. His research has been published in the journals *Educational Evaluation and Policy Analysis*, *Education Finance and Policy*, *Economics of Education Review*, *Teachers College Record*, and *Education Next*. His op-ed articles have appeared in numerous newspapers and magazines, including *The Wall Street Journal*, *The Washington Post*, *USA Today*, the *New York Post*, the New York *Daily News*, the *Weekly Standard*, and *National Affairs*. He is often quoted in the media on education issues. Winters received a B.A. in political science from Ohio University in 2002, and a Ph.D. in economics from the University of Arkansas in 2008.

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Transforming Tenure: Using Value-Added Modeling to Identify Ineffective Teachers

Marcus A. Winters

INTRODUCTION

Tenure and the Problem of Teacher Quality

Bad teachers substantially harm a child's prospects. Studies have found that an ineffective teacher can cost pupils as much as a grade level's worth of learning during a single school year.[1] Further, bad teachers—those who do not make any measurable contribution to their students' advancement—make students more likely to have an early pregnancy, reduce the chances that they will go to college, and have a negative impact years later on their pupils' earnings as adults.[2] A wide body of research has shown that even as teacher quality is a school's most important driver of achievement, teacher quality varies a great deal from classroom to classroom in public schools.[3]

Since 2009, a few school districts around the nation have been experimenting with changes to business as usual, seeking ways to improve the quality of their teachers. Though these districts remain a small minority, the reform effort has gathered steam, especially in the past year. One of its most controversial suggestions is the redefinition—or even elimination—of tenure for public school teachers.

For years, teachers' unions and their supporters have described tenure as a necessary bulwark against arbitrary or discriminatory termination, which was a common practice before the advent of modern employment law and labor standards. But the current tenure system protects bad teachers as well as good ones. (Very few tenured teachers are ever forced to leave the classroom.) We know that teachers vary in quality and that removing less competent teachers has the potential to improve students' education. Therefore, we can be sure that pupils are ill-served by a system that ensures that bad teachers cannot be fired. As its defenders like to point out, tenure ensures only that teachers receive due process before they are terminated. However, in most

school systems, the required due process is so burdensome—and has so small a chance of success—that in practice, poor performance is rarely a firing offense. To be rid of a teacher for poor performance, in most public school systems, an administrator must carefully document several proofs of incompetence over a sustained period of time—in the form of botched lesson plans, improper classroom development, and observed poor practice. These "proof points" are inherently subjective, and each is contestable in the hearing process. Meanwhile, measurements of actual outcomes—how much students have learned in the teacher's classroom—are rarely considered. This is why poor classroom performance is so rarely cited as a reason for dismissal. For instance, competence was mentioned in only eight of the 45 cases in which tenured teachers were terminated in New York City in 2008 and 2009. And six of those eight included other charges such as insubordination or misconduct.[4]

One might argue that worthy teachers with good records have earned some protection against the effects of a personal crisis or a rough year in the classroom. Tenure, though, is not reserved for proven educators. On the contrary, public school teachers are offered lifetime tenure very early in their careers—usually after three years—and the offer seldom has much to do with their performance. As of 2011, according to a review of tenure laws by the National Council on Teacher Quality (2011), only eight states require that performance of a teacher's students be central to deciding whether to award a teacher tenure. That actually represents considerable progress, since in 2009 the NCTQ found that not a single state awarded tenure primarily based on effectiveness. Moreover, in most American public schools, that early-career tenure decision is often the only systematic examination of a teacher's worth. Tenured teachers are rarely reexamined to ensure that their skills are maintained.

Why are measurements of effectiveness given so little weight in tenure processes? The simple answer is that, until recently, such measures did not exist. Tenure rules were written when performance was evaluated entirely on the basis of a classroom visit or two by an experienced observer. School systems simply lacked any objective measure of the teacher's contribution to student learning. Today, better measuring tools exist, but the rules remain as written. When tenure is decided, nearly all the teachers in a typical school system receive a satisfactory or higher rating.[5]

School systems need a better approach to tenure. Job protection, if it is to be offered at all, should be restricted to the best teachers. And policies should permit reevaluations, lest once-worthy teachers be protected long after their performance has faltered. Most important, tenure should be related to meaningful and objective measurements of teaching effectiveness.

On this last point, modern statistical tools present a promising avenue for reform. These measures, used in tandem with traditional subjective measures of teacher quality, could help administrators make better-informed decisions about which teachers should receive tenure and which should be denied it. Statistical evaluations can also be used to identify experienced teachers who are performing poorly, with an objectivity that reduces the risk of a teacher being persecuted by an administrator.

To those dissatisfied with the status quo, one technique in particular seems to offer a good basis for reform, and it has been implemented in many recent attempts to change tenure rules in order to improve teacher quality. It is the method known as value-added modeling (VAM). VAM uses a complex statistical procedure to determine each teacher's independent contribution to improvement in his or her students' test scores.

Many school systems across the nation have recently used, or are currently considering using, VAM assessments when making employment decisions. For instance, under new laws passed in Colorado in 2010, Tennessee in 2011, and just recently in New Jersey, teachers in those states will lose their tenure if they receive below-satisfactory performance ratings in two consecutive years. Those ratings are based, in part, on VAM.

Some worry that because VAM is an imperfect measure of classroom effectiveness, it will incorrectly deny tenure protections to some effective teachers—or

even cause good teachers to lose their jobs. If so, VAM's negative impact might cancel out its benefits and result in no net improvement in the quality of a school district's teaching staff. After all, research shows that VAM is an imprecise measure of a teacher's true performance.[6]

For this report, I test the premise that a teacher's VAM score can help predict his or her future performance. I use data from Florida to replicate recent analyses by two scholars, Dan Goldhaber and Michael Hansen (2010), who used data from North Carolina. Consistent with their research, my results show that pre-tenure VAM scores are significantly related to student test-score performance in the teacher's classroom in later years. These results indicate that VAM often contains meaningful information about a teacher's future effectiveness, which can usefully inform employment decisions.

Obviously, the potential effects of any VAM-based tenure-reform policy would depend upon its design. Accordingly, the second part of this report looks at the number and type of teachers who would have been removed from the classroom ("deselected") rather than tenured under different sorts of VAM-based policies, had those policies been in place in Florida when the data were collected. These comparisons show that the effects of such policies on teacher quality will depend on the standard that a teacher must meet to receive a satisfactory rating and on whether a teacher can lose tenure after it has been granted. These design issues, though important, should not obscure the fundamental point: VAM-based tenure policies hold considerable promise for removing consistently ineffective teachers and thus improving teacher quality throughout the public school system.

Before considering the method and results from this report, it is worth emphasizing that though the analysis here focuses only on the influence of VAM on teacher tenure decisions, real-world policies will quite sensibly use VAM as only one measure of effectiveness when rating teachers. Therefore, this report has put VAM-based tenure policies to a hard test: by evaluating the effect of using VAM alone to identify and remove ineffective teachers, it has placed more reliance on VAM than a real district would. That the VAM approach passes this test is a striking indication of its usefulness.

It is important to recall that this analysis was created to test the ability of VAM to identify low-performing teachers under the structure of the current system. That is, the analysis assumes that teachers and school systems will not respond to the new rules by changing their other behaviors. This is unlikely to be the case in any real-world application of tenure reform. Instead, teachers could reasonably be expected to respond to a reformed tenure system in several ways. The reformed system might, for example, attract a different sort of candidate. Further, teachers could respond to the new possibilities—not receiving tenure or being removed from the classroom—in ways that are good for students (by increasing their effort level), or that have unpredictable effects (changing their teaching style), or that could have negative effects (emphasizing only testable material in the classroom).

Additional theoretical and empirical research is needed to map the real-world effects of incorporating VAM-based measures of teacher quality into employment decisions. However, understanding the ability of VAM to predict future performance and the type of teacher identified as ineffective by a VAM-based system is an essential first step.

Balancing the Needs of Teachers and Pupils

Though VAM is a powerful technique, it is undoubtedly an imperfect measure of a teacher's effectiveness. VAM is limited partly because it considers student performance only as measured by standardized tests, which are themselves imperfect measures of student achievement and account for only part of what school systems ask teachers to do. But even as a measure of the teacher's contribution to student test scores, VAM has potentially serious limitations.

Critics of VAM analysis rightly point out that, as a statistical tool, VAM must contend with measurement error—the inevitable fact that measurements of the same thing, taken at different times, will vary, and some of this variation will be essentially random.

VAM-based measures of teacher performance can be quite imprecise. When VAM is used to inform tenure decisions, it is likely that some average and even above-average teachers could be removed from the classroom because of a low VAM score caused by random variation in measurement over the years, rather than their own failures. The influence of measurement error can be mitigated by statistical adjustments and by incorporating multiple years of student performance when evaluating any particular teacher. But measurement error cannot be eliminated.

From the perspective of teachers (and their unions), the collateral damage of even a single teacher losing tenure from an inaccurately low VAM score is unacceptable. However, the issue is not as cut-and-dried from the perspective of the student. A tenure-reform policy based on VAM will be an improvement for students if it removes enough low-performing teachers to improve overall teacher quality in a school district. If student achievement is our most pressing concern, we need to consider the possible consequences of VAM-based policies on whole districts, even as we acknowledge the potential for error in individual cases.

No evaluation system creates a perfect measure of an employee's productivity. VAM, then, should not be judged against a nonexistent ideal but rather evaluated for its potential to improve on the current system's ability to predict future performance. In the analyses that follow, this was my goal: to assess whether a tenure policy based on VAM would tend to improve a school district's overall teacher quality.

PART I: VAM IS A RELIABLE PREDICTOR OF FUTURE PERFORMANCE

Following Goldhaber and Hansen's work from North Carolina, my primary analysis uses a simple value-added model to estimate a teacher's contribution to student test scores during the first two years in the classroom. I then evaluate the relationship between this measure and the achievement of students in the teacher's classroom during his or her fifth year. If the previous VAM measure of teacher quality is a significant predictor of the teacher's later achievement, we can conclude that VAM provides reliable information about a teacher's future performance.

The analyses use detailed data about Florida students' performance on the state's annual high-stakes math and reading exams, the Florida Comprehensive Assessment Test (FCAT) in the spring semesters from 2002 through 2009.[7] Though individuals are not identified by name, the data set permits the analyst to follow the performance of each student over time. It also includes identifying variables for each teacher and a variable used to match students to teachers in classrooms.

My analyses only include students in the fourth and fifth grades. In later grades, students change teachers for each subject, making the assessment of teacher impact far more difficult. Further, testing in Florida begins in the third grade, and the analysis requires a baseline achievement score for the year before the study period. Therefore, grades before fourth are not available for this method.

I used student reading scores to create a simple value-added model by grade and year (a later check showed that results would be similar had I used math scores). The model accounted for the impact on test scores of such observed student characteristics as race/ethnicity, gender, and socioeconomic status (as measured by whether the children were eligible for free or reduced-priced lunches). After controlling for these and other variables, I was able to arrive at the estimated contribution of individual teachers to their students' test scores.[8]

With a measure of teacher impact in place for each student, I could then look at the data at the teacher level to develop a rolling measure of each teacher's quality over the years. As we have mentioned, most school systems offer tenure after three years in the classroom. Therefore, I calculated each teacher's average VAM score during his or her first three years in the classroom.

Finally, I took the measure of each teacher's average value-added score during his or her first three years back to the student-year data set. I used the VAM from those first three years to help predict each

teacher's students' achievement in the teacher's fifth year (the 2007–08 school year). What I was looking for was a significant and meaningful relationship between pre-tenure VAM score and the performance of students in the teacher's future classroom years later.

Relationship Between Pre-Tenure VAM and Later Student Performance

The results of the analysis are reported in Table 1. The first column reports the results from a regression analysis (a statistical method for showing the relationship among several variables) in which I mapped the relationship between student achievement and a teacher's having a master's degree. (The master's is often used as a proxy for skill and commitment in current evaluation systems.) Consistent with previous research, I find no relationship between a teacher having a master's degree and student outcomes.

The second column reports the results of a regression analyzing the relationship between the teacher's average VAM score during the first three years in the classroom and the performance of that teacher's students during his or her fifth year in the classroom. The result shows a statistically significant and substantial relationship between the teacher's pre-tenure average VAM score and achievement in that teacher's classroom several years later. The third column shows that a control for whether the teacher has a master's degree has no meaningful influence on the finding.

Table 1: Results

	Model 1	Model 2	Model 3
Masters Degree	0.136		0.115
	[0.103]		[0.0906]
Average Pre-Tenure VAM		0.628***	0.626***
		[0.0569]	[0.0565]

*** Significant at 1% level

Each column in the table represents the results of an independent regression. Three models are presented in order to illustrate the effect of controlling for possession of a master's degree or pre-tenure value added on the relationships. Dependent variable in all models is the student's reading test score in the spring of 2008-09. Model 1 considers the relationship between student achievement and whether a teacher has a Master's degree; Model 2 considers the relationship between student achievement and the teacher's average pre-tenure value-added score; and Model 3 includes both Master's degree and average pre-tenure score. Independent variables of interest listed by row. Models also control for observed student characteristics and prior student test score. Standard errors clustered by school reported in the brackets.

Results reported in Table 1 demonstrate that the value-added assessment of the teacher's effectiveness prior to the tenure decision is a significant predictor of the teacher's later effectiveness. Thus, VAM measures early in a teacher's career appear to be good predictors of how well a teacher will perform in the future. As mentioned, this result is consistent with the previous findings of Goldhaber and Hansen, who used data from North Carolina; it is important to note that data from another state's school system, based on data from a different standardized test, show the same relationship between early-career VAM scores and later student success.

PART II: COMPARING THE EFFECTS OF DIFFERENT VAM-BASED POLICIES

Accepting that VAM can help predict future success for teachers, I turn to the next practical question for school districts: How should VAM be incorporated into tenure policy?

Policymakers must first consider the level of performance that a teacher has to meet to avoid an ineffective rating. This bar must not be set too low, or the VAM will have little impact on quality. For instance, a VAM-based policy that removes a large school district's single worst teacher might have a substantial effect for the few students who would have been assigned to that teacher's classroom but would have an infinitesimal effect on overall teacher quality throughout the school system.

A second issue to consider is whether a teacher who receives tenure under a reformed system would keep it going forward (as is currently the case) or whether teachers could be continually reviewed. If tenure continues to be decided in teachers' third year on the job and they experience no further significant reviews, the impact of any quality-improvement effort will be limited to teachers at the start of their careers. This means that the policy might affect too few teachers and do nothing about older teachers whose effectiveness is fading.

Finally, policymakers must consider how to use multiple years of VAM scores to assign tenure or identify teachers for removal. The measurement error inherent in VAM analysis, along with other administrative issues, should lead school systems to use multiyear measures when making employment decisions. Policymakers could respond to this need by comparing teacher performance using the average VAM score over a multiyear period or, as districts in Colorado and Tennessee have already done, by removing teachers after they receive consecutive poor ratings.

Table 2 reports the number of students in Florida who were attached to teachers who would have been fired according to different versions of a VAM-based policy: first, one that removes a teacher who has received a poor rating based on the previous three years' performance; second, a policy that removes teachers only after they have demonstrated below-standard performance during their first three years in the classroom; and third, a policy that removes teachers who perform below a particular standard during consecutive years.

The table shows that different versions of a tenure-reform policy would benefit different numbers of students. As would be expected, policies that simply raise the VAM score considered acceptable will affect a greater number of teachers, and thus students. Similarly, the most impactful policy is one that affects all teachers, regardless of whether they have previously been granted tenure.

The table also shows that the most conservative policy—that is, the policy that leads to the fewest teacher removals—removes teachers based on consecutive bad ratings rather than their average rating relative to other teachers during a multiyear period. That result occurs because under a system based on consecutive poor ratings, teachers who earned a single low rating—perhaps because of random error—have the opportunity to "correct" the result by meeting the standard the next year. On the other hand, a policy that removes all teachers whose average score is below a particular percentile will always remove that percentage of teachers. By definition, a policy that removes teachers whose average VAM is below the fifth percentile of all average VAM scores during that period will remove 5 percent of the teachers, while a policy that removes teachers if they consecutively score below the fifth percentile will keep a teacher who scores in the third percentile during one year and the seventh percentile the next.

The effect of a tenure-reform policy on overall teacher quality in the school system depends both on the number and quality of teachers denied tenure under such a policy. Figures 1 through 9 compare the distribution of the 2008–09 VAM scores of teachers who would have been deselected at the end of the 2007–08 school year, according to these different systems, with those of teachers who would have avoided removal.

Though each figure represents a different policy, all show that teachers who would have been fired in 2008–09 were less effective than teachers who would have survived review. However, the figures illustrate that some teachers who were observed to be performing at or above the mean in 2008–09 would have been fired according to any version of tenure reform. The risk—of firing teachers whose later performance is above average—increases as the standard for failure is set higher. For example, a policy that removes teachers performing below the 25th percentile sets a higher standard than a policy that removes those scoring below the fifth percentile. But that policy is more likely to remove teachers whose later effectiveness would prove to be well above average.

Table 2: VAM-Based Teacher Firing

Percentile	5th	10th	25th
Remove if Average 3 Year Below Xth Percentile	3,651	7,804	20,580
Only Fourth Year Teachers Subjected to Potential Deselection	2,539	4,999	12,635
Remove if Receive 2 Consecutive VAM Scores Below Xth Percentile	580	1,685	9,457

The figures also enable us to compare the later performance of teachers who would have been deselected according to different policy styles. As was done in Table 2, we consider the quality of teachers deselected according to a policy that: a) removes any teacher whose average VAM score over a three-year period was below the Xth percentile; b) removes only entering fourth-year teachers whose average VAM score over their first three years was below the Xth percentile among all teachers; or c) removes any teacher with a VAM score below the Xth percentile among all teachers for consecutive years.

The figures illustrate that the most conservative policy design—that is, the policy least likely to remove teachers who later perform well in the classroom—removes those teachers who score below the Xth percentile during consecutive years. As Table 2 illustrates, this is the policy design that removes the smallest number of teachers. On the other hand, a policy that removes any teacher whose average VAM score over a three-year period is below the Xth percentile will tend to remove more teachers who would later demonstrate themselves to be effective, though even this policy will tend to remove more ineffective teachers than effective ones.

CONCLUSION

Like previous research found in North Carolina, my analysis of Florida data found that pre-tenure VAM scores often provide information about a teacher's future quality. Thus, VAM analysis can help replace "automatic" tenure with employment decisions based on reliable evaluations. It can be part of tenure reform and thus can contribute to improving public education in the United States.

But which tenure-reform policies would make best use of this technique? I addressed this question by pinpointing the teachers in the Florida data who would have been removed from the classroom according to several different types of policies and performance standards. I found that any VAM-based policy would have removed teachers who, on average, performed worse than their peers later in their careers. However, different versions of VAM-based policies proved to have different consequences. Specifically, certain versions increased the risk that effective teachers (as measured by VAM) would be removed. For example, a policy could target teachers for removal if they have two or more periods of consecutive poor performance. Alternately, the policy could simply score teachers on an average of their performance ratings for a given number of years. I found that the latter policy was more likely than the former to result in the removal of effective teachers (teachers who, despite a "bad patch" in the records, would prove to be effective later). Another way to increase this risk of "false positives," I found, was to set the performance bar high. Such policies, applied to the Florida data, would also have resulted in the removal of teachers who would later demonstrate effective performance.

These results tell tenure reformers that they should consider the number and type of teachers likely to be denied tenure or removed from the classroom under their proposed policies. This will help them design policies that balance the interests of students in need of great teachers and the legitimate interests of teachers concerned that they will be inappropriately removed from the classroom because of a randomly low VAM score.

The need for well-designed policies should not obscure the finding that public schools can indeed use VAM to help identify teachers for tenure or removal. Instead, these results underscore the importance of blending VAM with sound policies. This report does not argue that VAM should be used in isolation to evaluate teachers for tenure or to make any other employment decisions. VAM, as we have seen, is subject to random measurement errors, and so must be combined with other methods of teacher evaluation.

The lesson of this report and of other research is that VAM can be a useful piece of a comprehensive evaluation system. Claims that it is unreliable should be rejected. VAM, when combined with other evaluation methods and well-designed policies, can and should be part of a reformed system that improves teacher quality and thus gives America's public school pupils a better start in life.

ENDNOTES

[1] E.g., Hanushek (1992) finds that students assigned to a teacher whose students have results in the 75th percentile (i.e., whose scores are better than three-quarters of their fellow pupils') will test one year and a half ahead of where they started when the school year is over. Students with teachers in the 25th percentile, on the other hand, end up with scores that are only a half-year better than their starting point.

[2] Chetty, Friedman, and Rockoff (2011).

[3] See Hanushek and Rivkin (2010).

[4] E-mail correspondence with the Department of Education.

[5] Weisberg, Sexton, Mulhern, and Keeling (2009).

[6] See, e.g., McCaffrey, Sass, Lockwood, and Mihaly (2009).

[7] The analyses use a rich student-level panel data set acquired from the Florida K-20 data warehouse.

[8] Consistent with previous research, I adjust the teacher effects according to the empirical Bayes estimator.

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Appendix

Figure 1

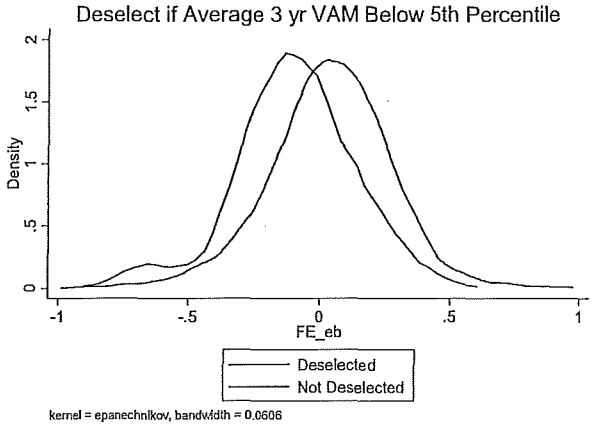


Figure 2

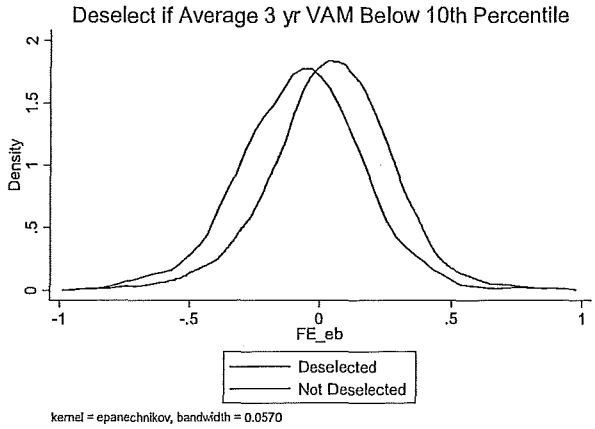


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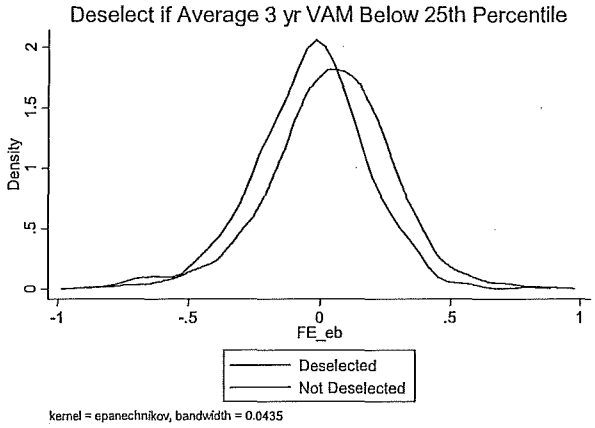


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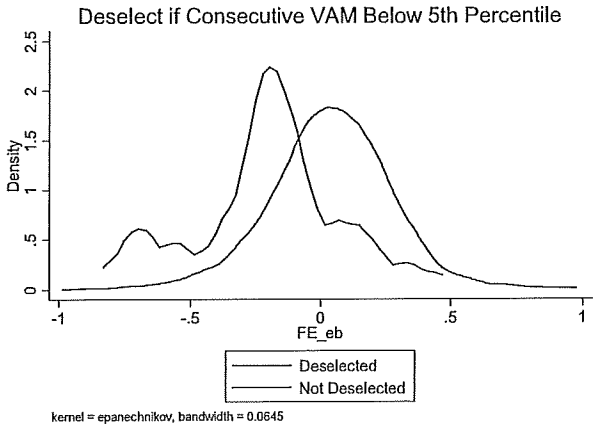


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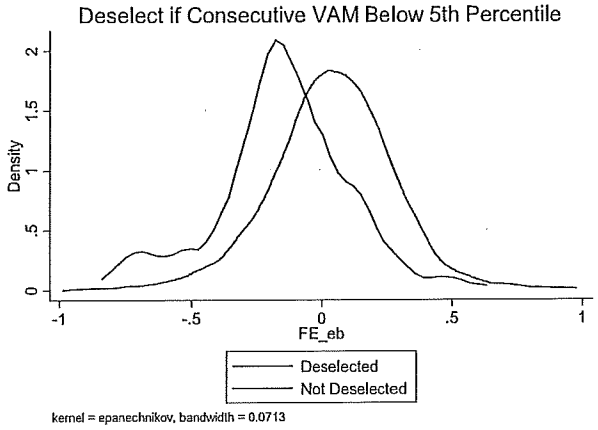


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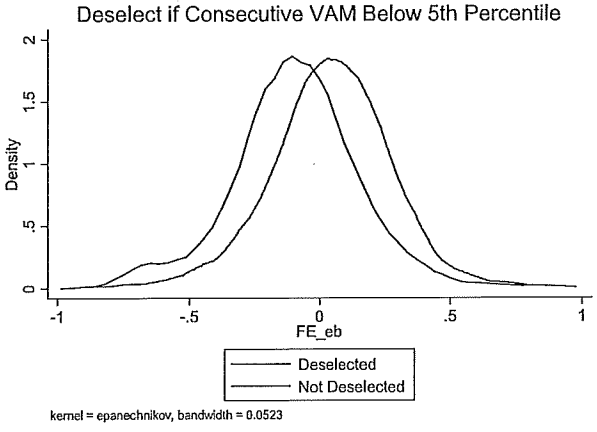


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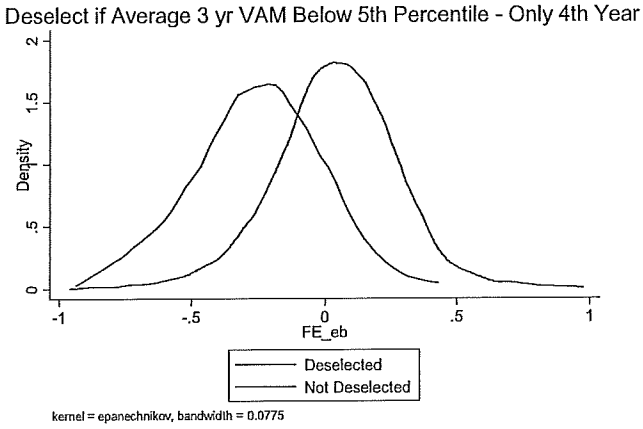


Figure 8

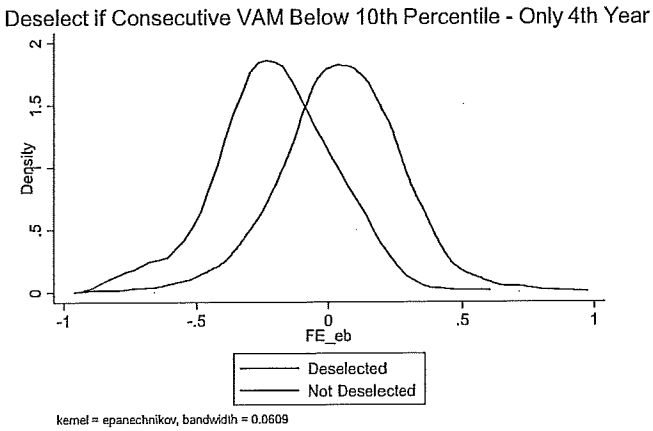
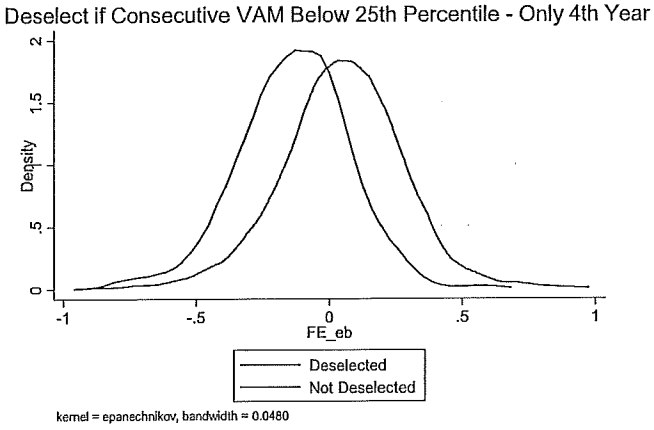


Figure 9



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8

Teacher Deselection

Eric A. Hanusl

The national educational challenge was most forcefully articulat by the nation's governors in 1989. As they met in Charlottesville, Virginia, they felt the need of the nation to improve the performance of students—a need articulated a half decade previously in *A Nation at Risk* (National Commission on Excellence in Education 1983). And they declared that the United States should be first in the world in mathematics and science by the turn of the century (National Education Goals Panel 1991). The problem was that we had no experience to draw upon that would indicate how this could be done. In the intervening two decades we have come to recognize that improving teacher effectiveness is perhaps the only viable way to accomplish the governors' goals, but even there the policies and mechanisms are far from obvious.

This discussion provides a quantitative statement of one approach to achieving the governors' (and the nation's) goals—teacher deselection. Specifically, how much progress in student achievement could be accomplished by instituting a program of removing, or deselecting, the least-effective teachers? A variety of policies for hiring and retraining teachers have been proposed, but they have not been very successful in the aggregate, as student performance has not improved. At the same time, it is widely recognized that some teachers do a very poor job, and few people believe that the worst teachers can be transformed into good

teachers. What would happen if we simply adopted policies of systematically removing the most ineffective teachers?

Motivation

At the time of *A Nation at Risk,* the United States was not performing very well on international tests, but its school attainment far exceeded that in other countries. For example, 88 percent of U.S. students had finished high school, but only 72 percent of similarly aged students in Organisation for Economic Co-operation and Development (OECD) countries had done so.[1] Further, central features of the U.S. economic system—such as openness to trade, secure property rights and a well-developed legal system, and highly adaptable labor and product markets—insulated the economy from any flaws in the development of its labor force.

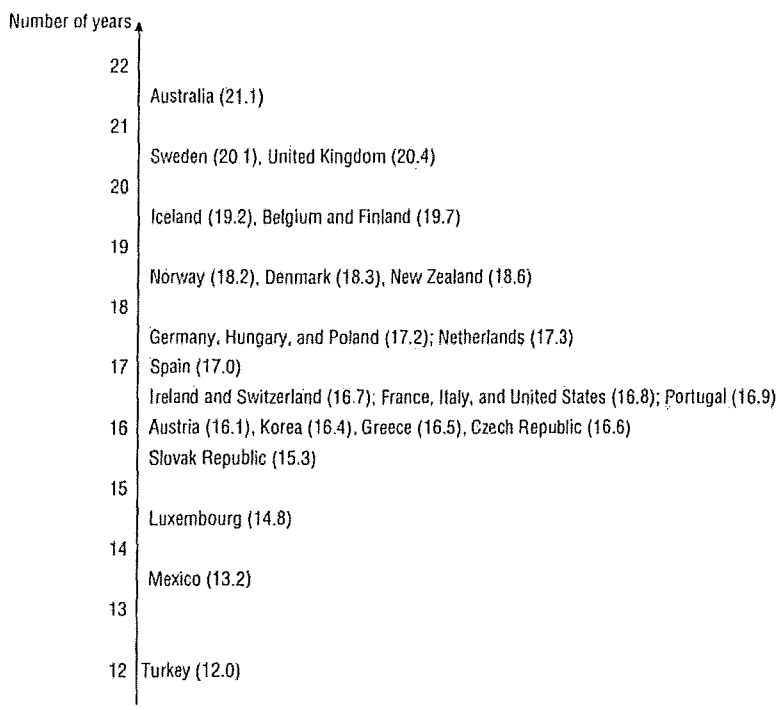
The world has changed dramatically since then. Other countries, intent on emulating the successes of the U.S. economy, have dramatically increased the school attainment of their populations. Figure 8.1 shows the expected school attainment in 2003. The United States falls noticeably below the average of 17.3 years for OECD countries, a remarkable shift in two decades. On other fronts, competitors have also been moving rapidly to improve their economic conditions to match those of the United States. As a result, other nations are currently much more competitive than at the time of *A Nation at Risk*—when the nation was told in unequivocal terms that the education system was not preparing our students to be competitive in the world.

The 1989 governors' meeting called for moving U.S. students up to the top of international rankings. But they did not attempt to describe what that would mean for the United States economy. We are now able to do that.

Start by considering how far behind the leader countries U.S. students are. Figure 8.2 shows the ranking of countries based on average mathematics score on the Program for International Student Assessment (PISA) tests in 2003.[2] U.S. students perform significantly below the OECD average. The top scorer on this assessment, Hong Kong, is two-thirds of a standard deviation (sd) ahead of the average U.S. student.

An improvement of 0.5 sd would move U.S. students close to the top—roughly where Canadian students fall and slightly behind such countries as Japan and the Netherlands.

Figure 8.1. Education Expectancy, 2003



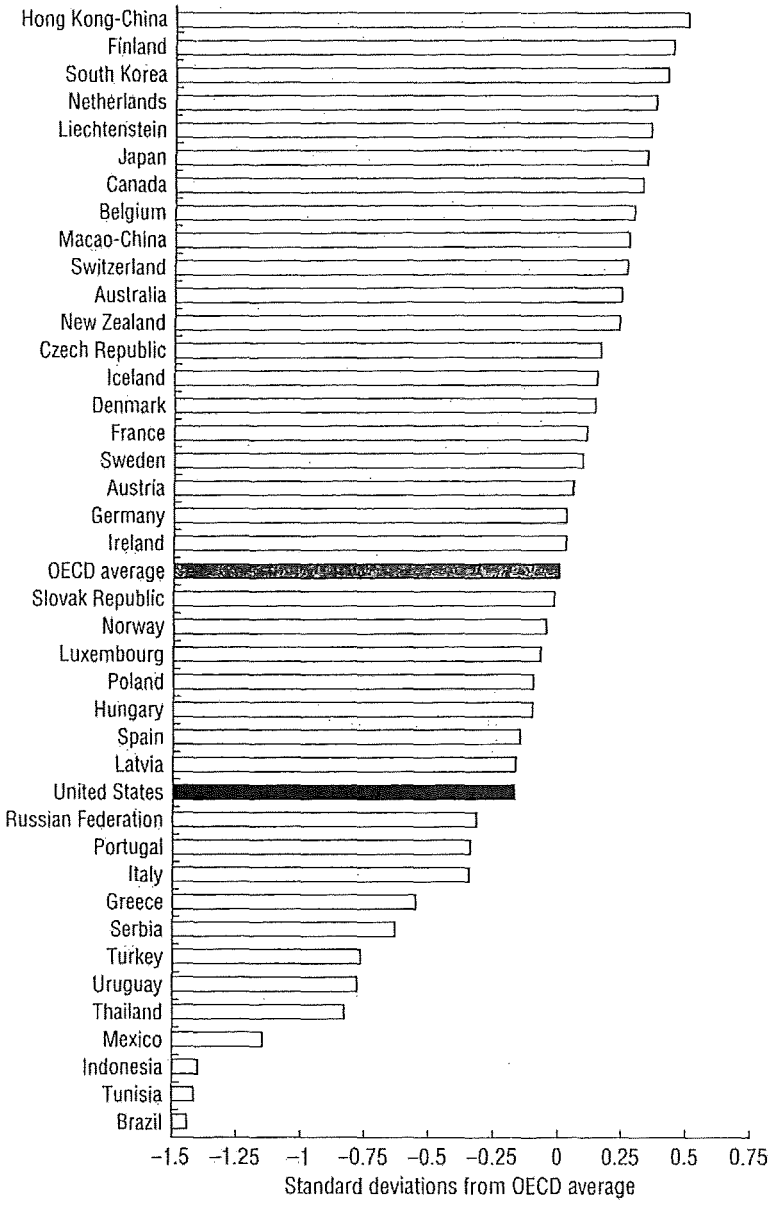
Source: OECD (2005), table C.1.1.

Note: Number of years includes all levels of education from primary education to adult life, under current conditions, excluding education for children under the age of 5.

Explanation: In Portugal, a 5-year-old child can expect to be enrolled during 16.9 years over his or her lifetime.

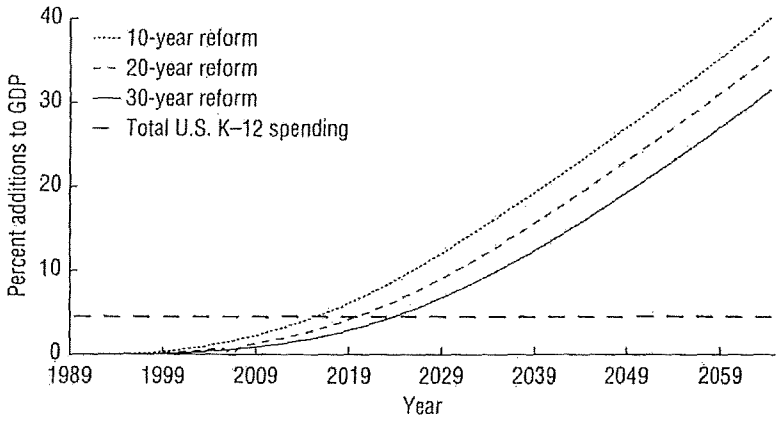
What would a 0.5 sd improvement mean for the U.S. economy? Recent analysis of how economic growth is affected by having a better-educated population shows that the implications would be dramatic (Hanushek et al. 2008). Figure 8.3, reproduced from that paper, shows how meeting the 1989 governors' pledge through improving student performance by 0.5 sd (making U.S. students perform like Canadians) would have affected current and future gross domestic product (GDP).

Figure 8.2. Mathematics Performance on PISA, 2003



Source: OECD (2004).

Figure 8.3. Increases in GDP from Improving Student Learning by 0.5 Standard Deviation



Source: Hanushek et al. (2008).

The governors' pledge of achieving dramatic improvements by 2000 is equivalent to the curve for a 10-year reform plan in figure 8.3.[3] This curve shows that by 2015 we could have expected GDP to be more than 4.5 percent higher than will be obtained without student improvement. (U.S. student performance according to the National Assessment of Educational Progress is essentially similar today to what it was at the time of the governors' summit meeting.) *This addition to GDP is equivalent to the proportionate expenditure for our 2008 national spending levels on K–12 education.* Or, seen differently, GDP in 2008 was more than $14 trillion; that makes the 2 percent increase in 2008 GDP predicted by the 10-year reform plan curve equivalent to about $300 billion.

If the reforms had been begun at the time of the governors' meeting but had stretched out for a longer period before they obtained their results, the improvements in GDP would take commensurately longer but would still have powerful implications for the U.S. economy. For example, a reform plan that took 30 years to bring students up to the level of Canada's students would cover K–12 expenditures with the added economic outcome by 2024.

The final motivating element for this chapter is that so little was accomplished by the policies that followed the governors' meeting or the

previous call to action from *A Nation at Risk*. A variety of approaches have been pursued (Peterson 2003). These have involved expanding resources in many directions, including increasing real per-pupil spending by more than 50 percent since 1983. Yet U.S. performance has remained unchanged since 1970, when we started obtaining evidence from the National Assessment of Educational Progress (figure 8.4).

The aggregate picture is consistent with a variety of other studies indicating that resources alone have not yielded any systematic returns in student performance (Hanushek 2003). The character of reform efforts—at least until recently—can largely be described as "same operations with greater intensity." Thus, pupil–teacher ratios and class size have fallen dramatically, teacher experience has increased, and teacher graduate degrees have grown steadily, but these have not translated into higher student achievement. On top of these resources, a variety of programs have been introduced with limited aggregate success. The experience of the past several decades vividly illustrates the importance of true reform—that is, reform that actually improves student achievement.

The recent movement to a standards- and accountability-based reform may change this picture, but the evidence is yet to be clear. In any event, the discussion below is consistent with accountability and with the No

Figure 8.4. National Assessment of Educational Progress Scores for U.S. 17-Year-Olds, 1969–99



Source: National Center for Education Statistics, "The Nation's Report Card," http://nces.ed.gov/NATIONSREPORTCARD/.

Child Left Behind Act in the sense that it describes a set of teacher policies that could lead to the results sought under the accountability systems.

The implication of the discussion is that improvements in student outcomes—if they occur—would be expected to have powerful effects. At the same time, doing more of the policies we have been pursuing is unlikely to lead to the performance improvements we seek.

The Power of Effective Teachers

A first question—given the previous section—is whether or not achieving such gains could be feasible with realistic reform strategies. Recent research suggests that it is feasible but that it will take redirection of efforts.

One explanation for past failure is simply that we have not directed sufficient attention to teacher quality and teacher effectiveness. By many accounts, the quality of teachers is the key element to improving student performance. But the research evidence suggests that many of the policies that have been pursued have not been very productive. Specifically, although the policies may have led to changes in measured aspects of teachers, they have not improved the quality of teachers as measured by student performance.[4]

Rivkin, Hanushek, and Kain (2005) estimated differences in teacher quality on an output basis. Specifically, the concern is identifying good and bad teachers on the basis of their performance in obtaining gains in student achievement. An important element of that work is distinguishing the effects of teachers from the selection of schools by teachers and students, and the matching of teachers and students in the classroom. In particular, highly motivated parents search out schools that they think are good, and they attempt to place their children in classrooms where they think the teacher is particularly able (Hanushek, Kain, and Rivkin 2004a). Teachers follow a similar selection process (Hanushek, Kain, and Rivkin 2004b, 2004c). Thus, from an analytical viewpoint, it is difficult to sort out the quality of the teacher from the quality of the students in her classroom. The analysis of teacher performance in Rivkin and colleagues (2005) goes to great lengths to avoid contamination from any such selection and matching of kids and teachers.[5] In the end, that analysis estimates that the differences in annual achievement growth between an average and a good teacher in math are at least 0.11 sd of student achievement.[6]

Before going on, it is useful to put this lower-bound estimate of the variation in quality into perspective. By this quality estimate, if a student had a good teacher as opposed to an average teacher for four or five years in a row, the increased learning would be sufficient to close entirely the average gap between a typical low-income student receiving a free or reduced-price lunch and the average student who is not receiving free or reduced-price lunches.

Reasonable estimates of annual achievement growth (which are used throughout the following calculations) are actually higher than this lower bound—specifically, 0.20 to 0.30 sd. These larger estimates reflect likely differences in teacher quality among schools; the fact that the similarly conservative estimates for reading as opposed to math are 0.15 sd instead of 0.11 sd; and a series of other factors that bias the previously discussed estimate downwards (Rivkin et al. 2005).

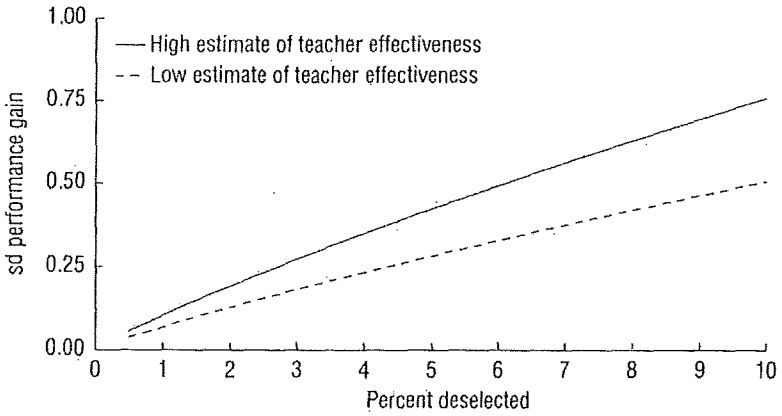
The implications of these differences are dramatic. Let us consider the impact of low-quality, or ineffective, teachers on student achievement. If the average learning growth each academic year is one grade-level equivalent, the estimates of variations in teacher quality indicate that the least effective 5 percent of teachers see gains that are at best two-thirds of a grade-level equivalent. The bottom 1 percent of teachers achieve no more than one-half of a grade-level equivalent in annual gains. (These calculations assume that 1.0 sd of teacher quality—moving from the center of the distribution to the 84th percentile—is 0.20 sd of student achievement; using a calculation of 0.30 sd makes these conclusions even more grim.)

External validation of these estimates comes from Hanushek (1992). The calculations of the low end of the distribution developed here are similar to the effects I previously calculated, but those estimates also suggest that the most conservative estimates may be too optimistic. The prior analysis of the range in performance in Gary, Indiana, schools suggests that the bottom 5 percent are no better than one-half grade-level equivalent in growth per academic year. These direct estimates of teacher differences are actually close to the higher estimates of teacher quality (0.30 sd of student achievement).

Clearly, the students with ineffective teachers are harmed. Students can probably recover from a single year of having a bottom 5 percent teacher, but a few years might lead to lasting problems—ones that dog students for a lifetime.

Let's look at the aggregate impact of the bottommost teachers. Figure 8.5 plots the impact on overall student learning of "deselecting"

Figure 8.5. Alternative Estimates of How Removing Ineffective Teachers Affects Student Achievement



Source: Author's calculations.

(i.e., moving out of the classroom) varying proportions of ineffective teachers. As an example, consider what would happen to average student performance if we could eliminate the least effective 5 percent of teachers from the distribution. The estimates of the impact of teachers on student achievement indicate that these students would on average gain 0.28–0.42 sd of performance.

These estimates of the importance of teacher quality permit some calculations of what would be required to yield the reforms discussed earlier. To begin with, consider what magnitude of teacher deselection might yield an improvement in student performance to the level of Canada (0.5 sd of student achievement). Figure 8.4 shows that eliminating the least effective 6–10 percent of teachers would bring student achievement up by 0.5 sd.

The estimates given here need to be put into the policy context. Consider a school with 30 typical teachers. These estimates suggest that eliminating the bottom two or three could boost student achievement up to the level of Canada's students.

This kind of policy is very consistent with the McKinsey evaluation of the policies found in high-performing school systems around the world (Barber and Mourshed 2007). Their evaluation suggests that the best school systems do not allow ineffective teachers to remain in the classroom

for long.[7] These conclusions are also consistent with more-local evidence, such as that for New York City, in Kane, Rockoff, and Staiger (2006) and the related policy prescriptions in Gordon, Kane, and Staiger (2006).

Policies of making active decisions on retention and tenure are, of course, alien to the current school system. A number of states currently have laws and regulations that lead to tenure decisions as early as two years into a teacher's career, with the mode being just three years (National Association of State Boards of Education 1997; National Council on Teacher Quality 2007). On top of that, the teacher evaluation process as typically seen is very cursory (Toch and Rothman 2008). Nonetheless, these are inconsistent with providing a quality education to all students, because some students must necessarily be relegated to these ineffective, and damaging, teachers.

The idea is that policies be put in place to identify the most-ineffective teachers and to move them out of the classroom. Developing such policies, negotiating them with teachers, and implementing them in the schools clearly take time. Thus, the reform paths in figure 8.3 sketch alternative time patterns for implementation that are likely to be relevant. Moreover, the prior calculations of impacts on student performance assume that all students have the higher-quality teachers for their entire K–12 school career. Thus, even if implemented immediately, it would take more than 10 years for any cohort to go through all schooling at the higher level. On the other hand, as noted earlier, had these policies been put in place as called for by the governors in 1989, we would today be reaping the unmistakable gains from the improved working of our national economy. Had we actually started with effective reform in 1983 as called for in *A Nation at Risk,* the gains to GDP would be sufficient to cover all of our expenditure on K–12 schooling.

It should also be noted that obtaining the gains from this policy presumes that the bottom 5 to 10 percent of the current distribution of teachers is eliminated *permanently.* To eliminate them permanently, it is necessary either to have a continuing deselection process or to upgrade the overall level of teacher effectiveness in the future. In particular, if hiring follows the current pattern, the new hires would have the same 5 to 10 percent of ineffective teachers, who would have to be deselected on an ongoing basis.

In the long run, it would probably be superior, however, to develop systems that upgrade the overall effectiveness of teachers. The difficulty is that past approaches have not proved very successful, at least as judged from stu-

dent outcomes. A variety of approaches have received widespread attention—induction programs, mentoring, professional development, and the like—and have been the focus of much policy interest. The interest in them has come substantially from the fact that they take current teachers and transform them into a more effective group. There has been little reason to believe that, at least as currently operated, these approaches are effective.[8] If they work, they could ensure that the pool of teachers is improved (and that continual deselection would not be needed). The key is "if they work."

The full impact of setting up a deselection process is difficult to project in the abstract. First, one might expect that a policy that selected and rewarded teachers on ability would alter who entered teaching. While more-risk-adverse people may shy away from teaching, a different group that wishes to be judged and evaluated by their contributions may come forward (see Hoxby and Leigh 2004). Moreover, there could be efficiency gains, for example, through improved professional development. (For more on the potential of using professional development to upgrade the quality of the teacher workforce, see chapter 11.) Today, when performance is not effectively evaluated, teachers and principals give little attention to the usefulness or quality of any professional development programs—and the result appears to be little average gains from the existing professional development. But, if classroom effectiveness mattered, teachers might be more engaged in selecting and participating in good professional development. Nonetheless, these ramifications are speculative, since we have little experience with how the market might operate with the introduction of true performance evaluation.

Cost Considerations

Policy initiatives on teacher deselection clearly alter the nature of the teaching contract. Today, few teachers are involuntarily separated from teaching, particularly after the probationary period. (In fact, some of the nation's worst performers—California and the District of Columbia—require decisions on tenure at the end of a two-year probationary period, making it very difficult to evaluate teachers.) As a result, the possibility of deselecting ineffective teachers increases the risk of employment as a teacher. Attempting to change the quality of the overall distribution may require increased compensation to attract

new and more-effective teachers who are also willing to take the added employment risk.

Analyzing reform policies directly by cost is not feasible because we know very little about the supply function for teacher quality. While there has been some work on the cost of hiring teachers with different characteristics (such as experience or advanced degrees), these characteristics do not readily translate into teacher quality (Hanushek and Rivkin 2004).

There are alternative ways to consider the costs of any policies aimed at improving the teaching force. Perhaps the simplest is to use the prior calculations of the benefits to provide an estimate of the upper bound on the feasible expenditure for new policies (based on the simple idea that costs must be less than benefits in order for the policy to be efficient).

Much of the current discussion of teacher quality is centered on statements about the overall level of salaries. It seems clear that teacher salaries have slipped relative to alternative earnings of college-educated workers, particularly for women (Hanushek and Rivkin 1997, 2004, 2006).[9] For various reasons, however, this does not give much policy guidance for the current discussions. In simplest terms, we do not know how teacher quality responds to different levels of salaries (Hanushek and Rivkin 2004). Moreover, policies that simply raised salaries across the board (even if advanced as a way to increase the attractiveness of the profession) would almost certainly slow any reform adjustments, because they would lower teacher turnover and make it more difficult to improve quality through new hiring.

Nonetheless, the aggregate growth numbers suggest that the annual growth dividend from an effective reform plan would cover most conceivable program costs over a relatively short period. Figure 8.3 shows an increase in GDP from improved student performance with varying implementation periods. Consider what real reform does. The "Canadian" improvement plan previously described that reached its goal in 20 years would already yield GDP that was 1.6 percent higher at the end of the 20-year implementation period. In other words, a 20-year reform plan begun in 2010 would yield this higher 1.6 percent level of GDP in 2030. In the U.S. economy in 2005, 1.6 percent amounted to $200 billion. That year, total spending on instructional salaries and benefits was just $233 billion (Snyder, Dillow, and Hoffman 2008, table 169). In other words, the increased GDP through improved student achievement would almost immediately cover current teacher salaries and benefits

fully—suggesting considerable room to pay for better teachers and to compensate for the higher risk of entering teaching.

The conclusion of the cost considerations is simple. The benefits from quality improvements are very large. Thus, they can support large and expansive incentive programs *if the programs work*. U.S. schools have, in fact, expanded in a variety of ways over the past four decades—real expenditures per pupil in 2000 are more than three times those in 1960. It is just that these past programs have not led to significant improvements in student performance. Put another way, the benefits do not justify all types of expenditure. They do justify many conceivable programs if they can be shown to be effective.

Conclusion

Many discussions of teacher policies concentrate almost entirely on upgrading the effectiveness of current teachers. This involves special induction programs, mentoring, ongoing professional development, and the like. Past approaches have not proved to be generally effective. Good programs have been difficult to implement on a broad scale, as seen through the results in student achievement.

This analysis points to the large cost of allowing the most-ineffective teachers to remain in the classroom. The bottom end of the teacher force is harming students. Allowing ineffective teachers to remain in the classroom is dragging down the nation.

If the bottom end of the teacher distribution cannot be improved through various remediation efforts, the alternative is more active deselection policies that trim off the least effective teachers. What stands out from an analysis of the impact of teachers on achievement is that relatively modest changes in the bottom end of the distribution have enormous implications for the nation.

It is unclear why we permit a small group of teachers to do such large damage. The majority of teachers are effective. They are able to compete with teachers virtually anywhere else in the world. Yet these effective teachers are lumped in with a small group of completely ineffective teachers, who are permitted to continue damaging students' educational experiences.

The problem does not seem to be with identifying these ineffective teachers. Some evidence shows that principals are able to identify these

bottom performers.[10] It is almost certainly true that there is even broader recognition of the bottom teachers—by principals, other teachers, and parents. Instead, it seems simply to be a lack of will to act on readily available information.

NOTES

1. These numbers reflect comparisons for the population born from 1961 to 1970; see OECD (2007), table A1.2a. These statistics, however, overstate the U.S. situation because they include GED completion in the calculation of high school success. This problem, along with other measurement issues, is discussed in Heckman and LaFontaine (forthcoming).

2. PISA is testing conducted by the OECD on international students for all OECD countries and a selection of other countries that voluntarily participate. PISA tests a random sample of 15-year-olds in each country. These tests, now on a three-year cycle, assess math, science, and reading skills. Alternative assessments at different ages are provided by TIMSS (Trends in International Mathematics and Science Study). The TIMSS shows some different comparative results, with U.S. 4th-graders doing relatively well, U.S. middle-school students in the middle, and U.S. 12th-graders in the bottom rankings.

3. For a description of how these calculations are accomplished, see Hanushek and Woessmann (2008, 2009).

4. For a review of existing literature, see Hanushek and Rivkin (2004, 2006). They describe various attempts to estimate the impact of teacher quality on student achievement.

5. To do this, they concentrate entirely on differences among teachers within a given school to avoid the potential impact of parental choice of schools. Moreover, they employ a strategy that compares grade-level performance across different cohorts of students, so the matching of students to specific teachers in a grade can be circumvented. As such, it is very much a lower-bound estimate on differences in teacher quality.

6. For this calculation, a teacher at the mean of the quality distribution is compared to a teacher 1.0 sd higher in the quality distribution (84th percentile), labeled a "good teacher." The estimate of 0.11 comes from the mathematics estimates. The comparable estimates for reading are 0.15 (revised estimates). These results relate specifically to grades 4–7. It is plausible that the distribution of teacher quality at high school is even more dispersed than shown here.

7. The method of ensuring good teachers, according to this study, does depend on the country. Some of the highest performing countries do this largely at entry by selecting from the very top of the pool of college graduates. Others have particularly effective professional development programs. For the United States, moving to selection of teachers from the top of the new graduate distribution appears infeasible. See Hanushek and Rivkin (2004).

8. Recent high-quality studies cast doubt on arguments about professional judgment and about various teacher induction and mentoring programs. See Garet et al. (2008) and Isenberg et al. (2009).

9. There is a current debate about how salaries of teachers compare to those in different professions; see Podgursky (2003) and Allegretto, Corcoran, and Mishel (2004).

10. See, for example, Armor et al. (1976), Jacob and Lefgren (2006), or Murnane (1975).

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3

Teams Versus Bureaucracies
Personnel Policy, Wage Setting, and Teacher Quality in Traditional Public, Charter, and Private Schools[1]

MICHAEL PODGURSKY

INTRODUCTION

Personnel policies in public schools are the subject of considerable policy debate. This debate arises out of concern about the quality of the public school teaching workforce and its effect on student achievement. Research suggests that one of the most important contributions of schools to student achievement gains is the quality of classroom teachers (Goldhaber, 2002; Hanushek & Rivkin, 2004). The No Child Left Behind Act reflects this concern in its requirement that school districts employ only "highly qualified" teachers in order to receive Title I compensatory education funds.

In other industries, human resource policies are seen to play a critical role in employee productivity and business performance. Yet human resource policies in public K–12 schools seem peculiarly out of sync with those in other sectors of our economy, most notably with higher education, and, as we will see, with charter and private K–12 schools.

Several examples illustrate this point. Unlike most other professions, the pay of public school teachers within a district is primarily determined by

[1] The author wishes to acknowledge research support from Smith Richardson Foundation; the research assistance of Samantha Dalton, Keke Liu, and Jae Pil Park; and technical assistance from Dale Ballou. The usual disclaimers apply.

rigid salary schedules that base pay on years of experience and graduate academic degrees or credits, with no differentials by field, effort or quality of performance, or differential working conditions between schools within a district.[1] These rigid pay schemes virtually guarantee shortages by field, since most school districts cannot maintain a pay schedule for all teachers sufficiently attractive to prevent shortages in *any* field. (Could a higher education institution afford to maintain a uniform pay scheme sufficiently high to prevent shortages in finance or accounting?) Moreover, since low socioeconomic status (SES) or high minority enrollment schools tend to have the highest turnover of faculty, these rigid salary schedules virtually guarantee that such schools will have the least experienced teachers.

In the area of contract renewal, most public school teachers earn tenure—automatic contract renewal—after a few years on the job. This makes it very difficult to dismiss senior teachers for anything but the most egregious failures in job performance. In practice, most dismissals of tenured teachers seem to be associated with criminal activity, psychological disorders, or serious moral turpitude—not poor classroom performance (Bridges, 1992).

Recruitment and job assignment are restricted by highly complicated licensing regulations. In medicine, law, dentistry, architecture, nursing, and virtually every other licensed profession, states issue a single license. However, in education, states routinely issue over 100 certificates and endorsements by field. Even excluding vocational and administrative licenses, the number of academic licenses routinely exceeds 50–60. In Missouri, by no means an atypical state, the Department of Elementary and Secondary Education currently issues 89 nonvocational and 171 vocational certificates and endorsements for K–12 teachers.[2]

Finally, teaching is the most highly unionized profession, with roughly 75% of teachers in traditional public schools (i.e., not charter) covered by collective bargaining agreements. In large urban districts, these agreements run roughly 200 pages or more, are highly detailed, and cover not only wage setting, but also staff assignment, recruitment, layoffs, personnel evaluations, dismissals, benefits, and other personnel policies.

In this chapter, we examine differences in personnel policy between traditional public, charter, and private schools and examine how these policies are shaped by the institutional and market framework within which these schools operate. We then explore how these personnel pol-

[1] There are some pay differentials, but these are primarily for added responsibility such as coaching and after-school activities.

[2] Even this understates the complexity of the teacher licensing system. These are currently issued certificates and endorsements. However, since states routinely change these licenses and "grandfather" the old codes, the number of valid types of licenses is far greater. In Missouri, the certification file has 781 valid codes. In the face of such complexity, it is hardly surprising that school districts are often forced to resort to the use of emergency or provisionally licensed teachers to staff some classrooms.

icy differences contribute to the academic quality differences observed between the sectors. This chapter builds on earlier research in the area. Ballou (2001) and Ballou and Podgursky (1997, 2001) examined differences in teacher quality and personnel policy in public and private schools using earlier vintages of the Schools and Staffing Survey (SASS) and a small sample of charter and private schools. Both studies find personnel policy differences among private, charter, and traditional public schools. More recently, Caroline Hoxby (2002) augmented the 1994–1995 SASS data with her own survey of charter schools. She found significant differences in the teacher demand between the sectors. Goldhaber, Choi, DeArmond, and Player (2005) developed an analytical model of merit pay adoption to explore why school districts choose to adopt merit pay. This chapter brings some new data and analysis to bear on this topic, particularly for charter schools.

DATA

The primary source of data in this chapter is the 1999–2000 SASS, a representative national survey of schools, districts, principals, and teachers conducted regularly by the National Center for Education Statistics of the U.S. Department of Education. It is a major source of information on public and private K–12 teachers and schools in the United States. Earlier waves of the survey were conducted in 1987–1988, 1990–1991, and 1993–1994. However, the 1999–2000 school year was the first time that SASS included a separate charter school survey. Details on SASS are provided in the appendix at the end of this chapter. In addition, we use state administrative data on schools and teachers in a particular school district—Kansas City, Missouri—that has a particularly high rate of charter school penetration.

INSTITUTIONAL BACKGROUND

The notion that product market conditions spill over into the labor market and influence wages, collective bargaining, and personnel policy has a long history in labor economics (e.g., Lewis, 1963). We take a similar approach. Differences in personnel policies among traditional public, charter, and private schools can be seen as a reaction to the regulatory and market environment within which the schools operate.

The most obvious difference between these sectors has to do with market competition. Charter and private schools are schools of choice and are thus subject to competitive product market pressures. If parents do not choose these schools for their children, the schools will go out of business. For the most part, this is not the case with traditional public schools. While there is some choice—such as magnet schools—within this sector,

children typically are assigned to schools within attendance zones. Thus, schools do not need to compete for parent customers.

Of course, there may be political pressures from taxpayers for public schools to adopt cost-efficient personnel policies, but in the political realm these may be offset by the demands of better organized "stakeholder" groups such as teachers, school administrators, and other school employees. In addition, individual taxpayers may be relatively uninformed as to the costs of different management practices.[1] To the extent that public school administrators are insulated from market pressures, we can expect them to adopt more "comfortable" personnel policies that raise their own utility, or that of other education interest groups, rather than increase efficiency. Teacher dismissals and performance-based pay systems require effort on the part of school administrators, increase stress, and usually involve confrontation with teacher unions. A more comfortable path is to acquiesce to teacher union preferences for single salary schedules and other restrictions on managerial authority. We hypothesize that greater competitive pressure in the product market should lead to more market- and performance-based personnel policies.

A second factor explaining the choice of personnel policies is the size of wage-setting units. In private and charter schools, the wage-setting unit is typically the school. In traditional public schools, on the other hand, wage-setting and most personnel policies concerning teachers—the level and structure of teacher pay, benefits, recruiting—are centralized at the district level. Researchers who study personnel policy in business find that the size of an establishment plays an important role in the types of personnel policies that firms use (Brown, 1990; Prendergast, 1999).

Figure 3.1 illustrates the dramatic differences in the size of the wage and personnel units in traditional public and private schools. There are approximately 15,000 public school districts in the United States, but the size distribution of these districts in terms of teacher employment is highly skewed. As a consequence, most teachers are employed in large school districts. One quarter of teachers in traditional public schools are employed in districts with at least 2,100 full time equivalent (FTE) teachers, and half of traditional public school teachers are in districts with at least 561 FTE teachers. Thus, the typical teacher finds herself in a large firm with standardized, bureaucratic wage setting. By contrast, the average charter school—an independent employer—employs just 16 FTE teachers, barely larger than the average private school (15 FTEs).

The size of the employing unit is an important factor in understanding a firm's choice of personnel policies. In small teams, it is much easier for supervisors or fellow workers to monitor job performance. This makes merit or performance-based pay less controversial. On the other hand,

[1] Hoxby (2000) has highlighted the role of Tiebout competition among public school districts. Black (1999) finds evidence that school quality is capitalized in housing prices.

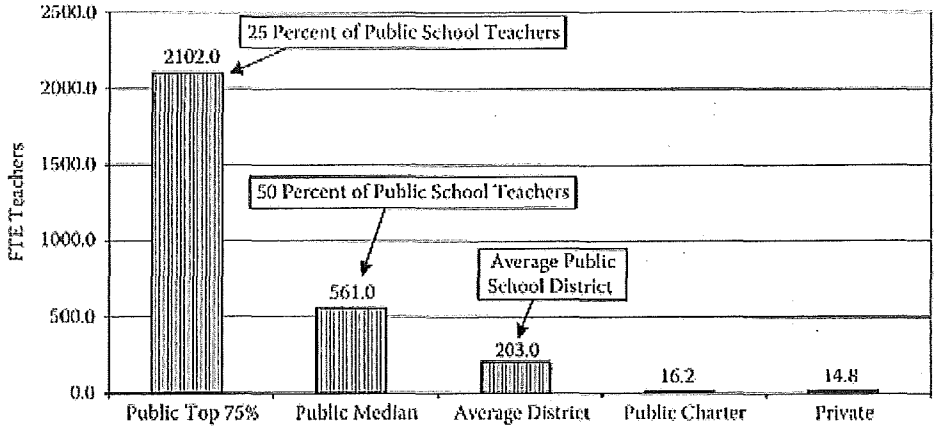


FIGURE 3.1. Size of wage-setting units in traditional public, charter, and private schools: FTE teachers employed. (From U.S. Department of Education, 1999–2000 Schools and Staffing Surveys.)

large school districts have a great deal of trouble implementing merit pay systems for teachers (Hatry, Greiner, & Ashford, 1994). In part, this is because they must come up with evaluation systems that guarantee horizontal "equity" across the many schools in the district bargaining unit—essentially a hopeless endeavor. Private and charter schools are under no requirement that their performance assessments be identical to those of other schools. They need only assure their teachers that they are treated fairly within the school. Teachers unhappy with the pay system at the school can always "vote with their feet" and go to another school with a more compatible pay regime.

Evidence for this "team" perspective is seen in teacher responses to a series of attitudinal questions on job control and work relationships reported in Table 3.1. Charter and private school teachers report greater levels of influence on academic standards and curriculum than did teachers in traditional public schools. More to the point, they report closer and more productive relationships with their principal, greater congruence in values and outlook, and more cooperative relations with colleagues than do teachers in traditional public schools. In short, the small size of charter and private schools combined with a fluid and competitive market allows heterogeneous employers and workers to sort and match in an efficient manner.

In principle, public school districts need not be so bureaucratic. They could adopt more decentralized systems of personnel policy, give school principals more control over teacher recruitment and pay, and adopt more of a team model. However, this brings us to the next important difference between the sectors: collective bargaining. The percent of teachers covered by collective bargaining agreements in charter schools is far lower than that in traditional public schools. (SASS does not bother to elicit this

TABLE 3.1
Teacher Influence and Attitudes in Traditional Public, Charter, and Private Schools

	Traditional public	Charter	Private	Private, nonreligious regular
How much influence do you think teachers have over school policy?				
Setting performance standards for students[a]	3.00 (.010)	3.47[c] (.015)	3.70[c] (.015)	3.89[c] (0.041)
Establishing curriculum[a]	3.18 (.010)	3.70[c] (.017)	3.85[c] (.016)	4.25[c] (0.041)
The school administrator's behavior toward the staff is supportive and encouraging.[b]	.788 (.004)	.802[c] (.004)	.873[c] (.004)	.861[c] (0.021)
Most of my colleagues share my beliefs and values about what the central mission of the school should be.[b]	.847 (.003)	.866[c] (.003)	.922[c] (.003)	.912[c] (.001)
There is a great deal of cooperative effort among the staff.[b]	.783 (.003)	.844[c] (.005)	.890[c] (.005)	.867[c] (.020)

Source: 1999–2000 Schools and Staffing Surveys

[a] Mean value on a scale of 1–5: 1 = no influence; 5 = a great deal of influence

[b] 1–4 Likert scale with 1 = strongly disagree; 4 = strongly agree. Percent reporting agree or strongly agree.

[c] Difference between charter/private and traditional public school significant at 0.01 level of significance.

information from private school respondents since few private schools bargain collectively with their teachers.) Seventy percent of public school districts, employing 73% of teachers, have collective bargaining agreements covering their teachers (Table 3.2). This contrasts with just 14% of charter schools (employing 18% of charter school teachers). The absence of a binding collective bargaining agreement is an important source of personnel flexibility in charter schools. Teacher unions in general have been opposed to more flexible market- or performance-based pay systems. Grievance procedures in collective bargaining agreements also make it more difficult to dismiss poorly performing teachers.

Collective bargaining also creates strong pressure for centralized wage-setting and personnel policies. An important institutional reason for this is that state labor regulators define school districts rather than schools as the "appropriate bargaining unit" for collective bargaining. Given the substantial resource costs in bargaining a contract and the fixed costs of administering it, both labor and management favor centralizing

TABLE 3.2
Percent of Districts, Schools, and Teachers Covered by Collective Bargaining Agreements

	Public	Charter
Percent of units (public = districts, charter = schools)	69.8 (0.7)	14.4 (0.5)
Percent of teachers	73.4 (0.7)	17.8 (0.7)

Source: 1999–2000 Schools and Staffing Surveys

bargaining at the school district level. Alternately, if a district attempts to implement one set of personnel policies or compensation practices in one set of schools versus another, it is under a great deal of pressure to provide a rational basis for the difference, and leaves itself open to potentially expensive grievances and litigation. Thus, in practice, collective bargaining standardizes personnel policy within the school district, and, in effect, tends to combine all the schools in the district into one large multiplant "firm."

A final environmental factor is teacher licensing. Traditional public schools must hire licensed teachers. Private schools, particularly at the secondary level, routinely hire uncertified teachers. Charter schools fall somewhere in between: Many states permit them to hire uncertified teachers. This permits private and charter schools to recruit from a much larger pool of candidates in filling teaching positions as compared to traditional public schools. Other things being equal, this should raise teacher quality.[1] The percent of teachers holding regular state teacher certification by sector is reported in Table 3.3. Ninety-three percent of teachers in traditional public schools hold regular state licenses. This contrasts with 71% in charter schools and 58% in private schools (slightly lower in nonreligious private schools).[2]

[1] This assumes, of course, that school administrators are actually seeking out the best teaching candidates and have good information about teacher quality. Traditional economic rationales for licensing (e.g., Shapiro, 1986) based on asymmetric information do not seem applicable to teaching. Unlike other professions, teachers do not sell their services directly to the public; rather, they are hired by experienced education professionals (principals, superintendents) who are themselves licensed. For further discussion of this point, see Ballou and Podgursky (1999).

[2] In Table 3.3 and subsequent tables, we report results for all private school teachers and for private school teachers in nonreligious regular schools. By "regular," we exclude schools that have a special program emphasis such as special education or education for handicapped students, Montessori, military, etc. Our goal is to identify schools providing educational services similar to those provided by traditional public schools. Because the SASS sample size is so much smaller for these nonreligious regular private schools, the standard errors are considerably higher than for the other groups.

TABLE 3.3
Percent of Teachers Holding Regular State Certification in Traditional Public, Charter, and Private Schools[a]

	Traditional public	Charter	Private	Private, nonreligious regular
Certified teachers as a percent of teaching workforce	93.0 (0.2)	70.3[b] (0.7)	58.2[b] (0.8)	52.6[b] (2.8)

Source: 1999–2000 Schools and Staffing Surveys
Notes: Standard error in parentheses.
[a] Excludes teachers holding state emergency or temporary state licenses.
[b] Difference between charter/private and traditional public school significant at 0.01 level of significance.

TABLE 3.4
Percent of Teachers Certified in Charter Schools With Certification Waivers

Certification requirement	Not used	Used but not required	Required	Total
Waived	11.5	65.3	23.3	100.0
Not waived	3.8	26.3	69.9	100.0

Source: 1999–2000 Schools and Staffing Surveys

Of course, the lower percent certified in charter and private schools may reflect supply rather than demand factors. One could surmise that charter and private schools wish to hire certified teachers but they do not apply. In the case of charter schools, however, these data suggest otherwise. Administrators in the SASS charter school survey were asked a series of questions about state regulations from which they were waived. ("Does your school's charter include waivers or exemptions from the following state or district policies?") They were also asked about various hiring criteria used by the school (e.g., full standard state certification, graduation from a state-approved teacher education program).

Table 3.4 reports results from a cross-tabulation of these two questions. We split our sample of charter schools into two groups: schools that had the flexibility to hire noncertified teachers and schools that did not. Schools for which the certification requirement was waived were much less likely to use certification as a condition for hiring. Of these schools, 65% used certification as a criterion to consider for hiring, but only 23% actually required it. This suggests that while teacher certification is seen as a valuable attribute by charter school administrators, so are other teacher characteristics. School administrators are willing to "trade off" certification for other desirable attributes.

These tabulations are consistent with open-ended survey questions asked in Ballou and Podgursky (2001). Respondents were asked to comment on "the most important ways that teacher recruitment and hiring differed from traditional public schools in your area." In states where it was permitted, the most common difference noted by charter school respondents was their ability to hire noncertified teachers. One respondent captured the spirit of many with his succinct reply: "Certification is not the gatekeeper."

LEVEL AND STRUCTURE OF COMPENSATION

In the previous section, we hypothesized that a more competitive environment combined with a smaller firm size and greater flexibility would lead to greater differences in compensation policies between traditional public and private or charter schools. At the broadest level, one might compare the use of salary schedules in the three sectors. In Table 3.5 we find that 96% of public school districts (accounting for virtually 100% of

TABLE 3.5
Teacher Salary Schedules and Incentive Pay

	Traditional public (%)	Charter (%)	Private (%)	Private, nonreligious regular (%)
Is there a salary schedule for teachers in this school?	96.3 (0.29)	62.2[a] (0.72)	65.9[a] (1.24)	45.1[a] (5.60)
Does this school currently use pay incentives such as cash bonuses, salary increases, or different steps on the salary schedule to reward:				
NBPTS certification?	8.3 (0.37)	11.0[a] (0.43)	9.6 (0.88)	14.8 (5.5)
Excellence in teaching?	5.5 (0.35)	35.7[a] (0.65)	21.5[a] (0.93)	42.9[a] (5.5)
Completion of in-service professional development?	26.4 (0.70)	20.5[a] (0.56)	18.7[a] (0.88)	26.0 (5.67)
Recruit or retain teachers in fields of shortage?	10.4 (0.464)	14.9[a] (0.54)	7.9[a] (0.61)	15.0[a] (3.40)

Source: 1999–2000 Schools and Staffing Surveys
Note: Standard error in parentheses.
[a] Difference between charter/private and traditional public school significant at 0.01 level of significance.

teachers) report that the district has a salary schedule for teachers. In contrast, only 62% of charter and 66% of private schools report using a salary schedule to set teacher pay.

What other factors, then, determine pay in charter and private schools? In SASS, school administrators were asked a series of questions about incentive pay: "Does the district (school) use any pay incentives such as cash bonuses, salary increases, or different steps on the salary schedule to [reward x]?" Responses to these questions are reported in rows 2–6 of the table. The question that most closely corresponds to traditional merit pay is "excellence." In that case, only 6% of traditional public school administrators responded in the affirmative. The rates for charter (36%) and private (22%) schools were much higher. Charter and nonreligious private schools were also more likely to pay bonuses to recruit or retain teachers in shortage fields.

While private and charter schools seem less inclined to use salary schedules and somewhat more inclined to use incentive pay, on the face of it most seem to have pay systems similar to those in public schools. However, this overlooks a very important source of pay flexibility in private and charter schools. In the latter, pay is set at the school level, whereas in traditional public schools, the pay is set district wide. This means that dozens or, in larger school districts, hundreds of schools are locked into a single salary schedule. For example, the New York City school district has 1,206 schools, LA Unified has 660, Chicago has 602, and Miami–Dade County has 356. In each of these cases all teachers in the district are covered by a single district-wide salary schedule.

Unfortunately, the sampling design in SASS limits our ability to analyze the dispersion of teacher pay within metropolitan labor markets or within districts. For a better appreciation of these sources of pay variation, we examine data for charter and traditional public schools in the Kansas City area. (Similar private school data are not available.) Missouri's charter school law is unusual in that it only permits charter schools in the two largest school districts: St. Louis and Kansas City. The Kansas City (KC) case is interesting because the penetration rate of charters is very high.[1] In fall 2002, there were 17 charter schools in operation with a total enrollment of roughly 6,700 students, or 19% of the total public school enrollment. This high penetration rate makes it reasonable to talk about a charter school sector in this local labor market.

Table 3.6 presents data on public school teacher pay in the KC charter sector and the surrounding labor market for public school teachers. Our dependent variable is regular-term teacher pay for full-time teach-

[1] A recent study by Ziebarth (2006) estimated the 2005–2006 Kansas City penetration rate at 20%, giving it a tie for fourth place in U.S. metro areas, behind New Orleans, Dayton, Ohio, Washington, DC, and tied with Pontiac, Michigan, and Youngtown, Ohio.

TABLE 3.6
Variation in Teacher Pay: Kansas City Area, Regular Term, Full-Time Teachers, 2002–2003

	Charter schools	All Jackson County (12 school districts)	Kansas City, MO, school district
Average salary	$34,918	$41,466	$41,748
Average public school teaching experience	8.0 years	13.3 years	14.1 years
Residual variation in pay[a] root MSE	$6,703	$4,716	$5,534
R^2	.292	.762	.699
N teachers	314	7,018	2,278
ANOVA			
Variation between schools			
All teachers	33.9%	5.1%	6.7%
Public experience 10 years or less	45.5%	22.4%	11.5%
N schools	17	118	72

Source: Missouri Department of Elementary and Secondary Education, Core Data Files.
[a] Root MSE and R^2 from following regression: RTPAY = b0 + b1 E + b2 E2 + b3 E3 + b4 MA+, where RTPAY is regular-term teacher pay, E is years of public school teaching experience, and MA+ is a dummy variable indicating whether the teacher had an MA degree or higher.

ers.[1] We present data on the KC school district and all school districts in the county. Average pay in the charter schools ($34,918) is lower, but this reflects in part the lower average level of teacher seniority. Our interest, however, is in the dispersion of teacher pay. The third and fourth rows of the table report the R^2 and mean squared error (MSE) from a regression of regular-term teacher pay on a cubic in experience and an indicator variable for whether the teacher holds an MA degree. These statistics clearly indicate that education and experience explain much less of the dispersion in teacher pay in the charter sector. However, the lower R^2 may be due to the fact that there is less variation in experience (and fewer MAs) in the sector. More striking is the higher MSE. In spite of the lower average pay in the charter sector, the MSE is significantly higher. Thus, pay is considerably more variable in the charter school sector, in ways not explained by teacher experience or graduate degrees.

[1] All pay and school data are from administrative data files maintained by the Missouri Department of Elementary and Secondary Education.

How much of this dispersion is within versus between schools? The bottom rows in the table provide a simple ANOVA decomposition of pay in the charter and traditional sectors. In the traditional public schools, interschool variation accounts for only 5–7% of the total variation in pay. By contrast, in the charter sector, interschool variation accounts for 34% of total variation. If we restrict this comparison to teachers with relatively low seniority (less than 10 years), the charter–noncharter differences narrow, but the same pattern holds. Interschool differences in average pay account for 46% of total variation in charters, as compared to just 22% in the KC district and only 12% in the county.

While we should be cautious about generalizing to other teacher labor markets, these comparisons suggest that there is a larger unexplained dispersion of teacher pay in the charter school sector. In fact, Ballou (2001) reports similar findings in comparisons of teacher pay in public and private schools. Thus, even if teachers within a charter school are paid entirely off rigid salary schedules, these data suggest that there is considerable variation in pay between schools, which may permit pay at the school level to adjust to market conditions. One market factor, for example, may be the level of the school. For example, Podgursky (2001) reports that in the 1993–1994 school year, starting teacher pay in private elementary schools was 12% lower than in private secondary schools. For teachers with an MA and 10 years of experience, the gap was 17%.

DISMISSALS FOR PERFORMANCE

Rigid salary schedules might not be as costly if teacher experience and graduate education were strong predictors of teacher productivity. Surveys of the education production find little support for a positive effect of teacher MA degrees, and teacher experience has little effect beyond the first few years (Hanushek & Rivkin, 2004; Rivkin, Hanushek, & Kain, 2005). Nonetheless, in principle, a seniority-based wage structure might be efficient if less effective teachers are weeded out over time. However, personnel policies in traditional public schools are not likely to produce such an effect. Teachers in traditional public school districts receive automatic contract renewal or tenure after 3–5 years on the job. After a school grants tenure, it is difficult to dismiss a teacher for poor job performance. Moreover it is not at all clear that public school districts take full advantage of the opportunity to weed out poorly performing probationary teachers. Interestingly, although there has been much discussion of this problem of poor monitoring of probationary teachers, there has been little systematic data collection. The only empirical study of which we are aware is Bridges (1992), who surveyed 141 midsize school districts in California. He found annual dismissal rates for probationary teachers of roughly 1%—hardly consistent with rigorous screening.

TABLE 3.7
Teachers Dismissed Annually for Performance

	Traditional public	Charter	Private	Private, nonreligious regular
Number with less than 3 years experience	0.831 (0.016)	0.533[a] (0.014)	0.208[a] (0.012)	.249[a] (0.043)
Number with 4 or more years experience	0.293 (0.046)	0.318 (0.014)	0.228 (0.023)	.224 (0.077)
Dismissed as a percent of the teaching workforce[b]	1.1% (0.2)	7.5%[a] (0.2)	3.7%[a] (0.3)	2.3%[a] (0.4)

Source: 1999–2000 Schools and Staffing Surveys
Note: Standard error in parentheses.
[a] Difference between charter/private and traditional public school significant at 0.01, 0.05 levels.
[b] For charter and private, percent of total teaching workforce; for traditional public, percent of FTE teacher employment in the district.

Fortunately, for the first time, the 1999–2000 SASS has included items on teacher dismissals. School or district administrators were asked about the number of teachers dismissed for poor performance over the previous year. Respondents were asked about total dismissals of teachers with 3 or fewer years' experience (typically untenured) and more than 3 years (usually tenured). These totals are reported in Table 3.7. The typical public school district dismissed just 0.9 low-experience teachers and only 0.3 high-experience teachers. The average charter school dismissed 0.5 low-experience and 0.3 high-experience teachers. The total dismissals for private schools were lower for both groups (0.2). As we saw in Figure 3.1, the teaching workforce in public school districts is far larger than for charter or private schools. Thus, the dismissal rate for traditional public school districts (i.e., dismissals as a percent of the teaching workforce) is far lower than for charter or private schools. The annual dismissal rate for all teachers in traditional public schools is just 1.1% of the teaching workforce.[1] For charter schools, the dismissal rate is 7.5% and for private schools it is 3.7%.

Of course, at the time of this survey, the vast majority of charter schools had been in existence just 1 or 2 years. One might expect higher dismissal

[1] Unfortunately, the SASS school survey did not ask school administrators the number of teachers with 3 or fewer or more than 3 years of seniority. Thus, we cannot compute dismissal rates for the two groups separately.

rates as part of the "shakeout" of staff involved in opening a new school. After all, in such schools virtually all the teachers are probationary. Multivariate analysis of the charter school dismissal rate finds that it tends to decline sharply with the age of the charter school and approaches the rate of private schools after several years of operation.

TEACHER QUALITY MEASURES

Ideally, one would like the personnel policies described earlier to be linked to direct measures of teacher performance as measured by student learning. Unfortunately, such data are generally not available.[1] Instead, we must make do with indirect measures of teacher quality. In our case, we will use measures of teacher academic quality. There is some evidence in the education production function literature that broad-based measures of teacher academic skill such as ACT or SAT scores, or proxies like college selectivity, are associated with greater teacher effectiveness (Ballou & Podgursky, 1997; National Research Council, 2002). In addition, education policymakers have shown a strong desire to recruit teachers with more rigorous academic backgrounds. In this spirit, we consider several measures of the broad general skills and academic training of teachers.

Table 3.8 reports estimates of linear probability models for these teacher quality measures. We estimate these models on samples of teachers from the 1999–2000 SASS. For each teacher quality measure, we estimate four models. The first has no covariates and simply amounts to a t-test comparing mean quality in charter and private schools with traditional public schools. For example, in row 1 we find the probability that a charter school teacher had an academic major was 0.095 (9.5%) higher than a teacher in a traditional public school. A similar finding holds for private schools. Adding covariates and state effects lowers the charter effect somewhat, to 6.9%, but has little effect on the private school advantage. As in the previous tables, in the next two rows we disaggregate the private school estimates to secular, regular emphasis versus all other private schools. The difference between the traditional public and secular private schools on this academic wage variable is quite substantial (15.6%).

The remaining rows in the table consider three other teacher quality measures: math or science major, and two measures of college selectivity (Barron's top 2 and top 3). In nearly all cases, private schools (particu-

[1] Interestingly, the limited evaluation literature on performance-based compensation for teachers finds generally positive effects on student achievement. For a survey of this literature, see Podgursky and Springer (2007). The evaluation literature on charter schools and student achievement is slender as well, with mixed findings. However, there is clear evidence that the performance of charter schools improves as they mature (Bifulco & Ladd, 2006; Sass, 2006).

TABLE 3.8
Measures of Teacher Academic Quality

Teacher characteristic	Public	Charter	Private, all	Private, nonreligious regular	Private, other	Covariates and state effects (51)[a]	*N*
Academic major	—	.095[b] (10.38)	.075[b] (12.42)	—	—	No	52,031
	—	.069[c] (7.20)	.072[c] (11.27)	—	—	Yes	51,762
	—	.095[b] (10.39)	—	.236[b] (14.09)	.054[b] (8.57)	No	52,031
	—	.069[b] (7.17)	—	.156[b] (9.53)	.061[b] (9.12)	Yes	51,762
Math or science major	—	.000 (1.00)	.022[c] (3.69)	—	—	No	52,031
	—	−.015 (1.47)	.008 (1.21)	—	—	Yes	51,762
	—	.000 (1.00)	—	.044[b] (3.14)	.018[b] (2.74)	No	52,031
	—	−.015 (1.47)	—	.025[d] (1.73)	.004 (.65)	Yes	51,762
Undergraduate college selectivity (top 3)	—	.162[b] (20.44)	.042[b] (8.01)	—	—	No	52,031
	—	.146[b] (16.91)	.027[b] (4.74)	—	—	Yes	51,762
	—	.162[c] (20.48)	—	.238[b] (16.33)	.017[b] (3.09)	No	52,031

TABLE 3.8 (continued)
Measures of Teacher Academic Quality

Teacher characteristic	Public	Charter	Private, all	Private, nonreligious, regular	Private, other	Covariates and state effects (51)[a]	*N*
	—	.145[b] (16.85)	—	.201[c] (13.76)	.004 (.71)	Yes	51,762
Undergraduate college selectivity (top 2)	—	.159[b] (20.94)	.002 (.40)	—	—	No	52,031
	—	.131[b] (15.95)	−.012[d] (2.26)	—	—	Yes	51,762
	—	.159[b] (20.96)	—	.122[b] (8.77)	−.013[b] (2.53)	No	52,031
	—	.131[b] (15.90)	—	.096[b] (6.88)	−.026[b] (4.66)	Yes	51,762

Source: 1999–2000 Schools and Staffing Surveys
Note: T-statistics in parentheses.
[a] Covariates include rural, suburban, central city indicators, secondary/combined indicator, percent minority students in the school, and 51 state/DC effects.
[b] Significant at 0.01%.
[c] Significant at 0.05.
[d] Significant at 0.10.

TABLE 3.9
Academic Measures of Teacher Quality: Kansas City, Missouri, and Jackson County School Districts, 2002–2003

	Barron's selectivity level	
	Top 2	Top 3
Kansas City charter schools	2.1%	31.3%
Kansas City district schools	1.1%[a]	28.3%[a]
Rest of Jackson County	.6%[a]	30.4%[a]

Source: Missouri Department of Elementary and Secondary Education, Core Data and Teacher Certification Administrative Data files
[a] Difference between Kansas City charters and other cells significant at 1%.

larly secular, regular emphasis) and charter schools are significantly more likely to have teachers of higher academic quality.

Table 3.9 provides a robustness check for these findings. Here we return to our Kansas City area public schools. Unfortunately, state administrative data do not readily permit identification of a teacher's undergraduate major. However, it is possible to code the selectivity of the teacher's undergraduate college. The results of this exercise are reported in Table 3.9. Consistent with our finding with SASS, charter schools in the Kansas City teacher labor market, in spite of their somewhat lower pay, seem to be attracting teachers of higher academic quality, as measured by college selectivity. The advantage is largest when comparing the charters to traditional public schools in the Kansas City district. However, it is interesting to note that the charter advantage even holds when the sample is broadened to suburban schools in the rest of Jackson County.

CONCLUSION

This chapter examines reasons that personnel policy and wage setting differ among traditional public, private, and charter schools and the effects of these policies on academic measures of teacher quality. Survey and administrative data suggest that regulatory freedom, small wage-setting units, and a competitive market environment make pay and personnel practices more market and performance based in private and charter schools than in traditional public schools. These practices, in turn, permit charter and private schools to recruit teachers with better academic credentials as compared to traditional public schools.

One criticism of charter schools has been that they are not particularly innovative and, in terms of classroom practice, tend to resemble traditional public schools (e.g., American Federation of Teachers, 2002; Wells, 1998). Whether this is a correct assessment of pedagogy and curriculum, we cannot say. However, in the area of teacher personnel policy, available

evidence suggests that there are major differences between traditional public schools and charter schools. These findings reinforce those found in our earlier survey research (Podgursky & Ballou, 2001) and in Hoxby (2002). Charter schools seem to be using the regulatory flexibility they have been granted in this area to forge vastly different policies. Our analysis finds that, in many respects, personnel policy in charter schools more closely resembles that in private schools than in traditional public schools.

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APPENDIX

DATA

The 1999–2000 SASS is a representative national survey of schools, districts, principals, and teachers conducted regularly by the U.S. Department of Education's National Center for Education Statistics. It is a major source of information on public and private K–12 teachers and schools in the United States. Earlier waves of the survey were conducted in 1987–1988, 1990–1991, and 1993–1994. However, the 1999–2000 school year was the first time that SASS included a separate charter school survey.

The following are descriptive statistics on the 1999–2000 SASS:

- Traditional public schools:
  4,690 districts; 8,432 schools; 8,524 principals; 42,086 teachers
- Public charter schools:
  870 schools; 891 principals; 2,847 teachers
- Private schools:
  2,611 schools; 2,734 principals; 7,098 teachers



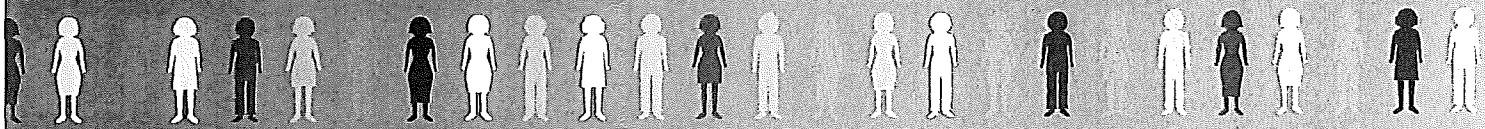
THE WIDGET EFFECT

Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness

Exhibit 19

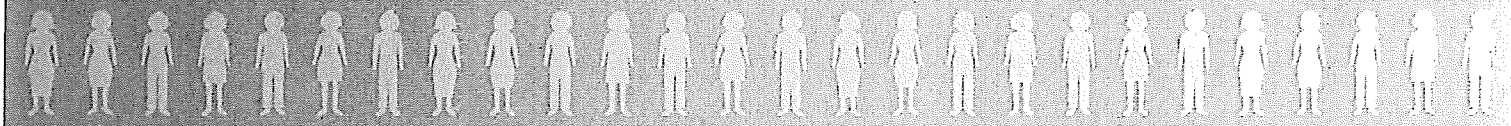
The New Teacher Project

Daniel Weisberg • Susan Sexton • Jennifer Mulhern • David Keeling



THE WIDGET EFFECT

Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness



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SECOND EDITION

Acknowledgments | This report is the result of invaluable contributions from many individuals across The New Teacher Project. The authors would especially like to thank Dahlia Constantine, Timothy Daly, Vinh Doquang, Adele Grundies, Crystal Harmon, Dina Hasiotis, Ellen Hur, Gabrielle Misfeldt, David Osta, Ariela Rozman and Jeffrey Wilson for their efforts and insights. Additionally, we would like to thank Rachel Grainger, Judith Schiamberg and Andrew Sokatch for their work on the initial design of the project, and Caryn Fliegler and Elizabeth Vidyarthi for their help in the report's publication.

We would also like to recognize the advisory panels in each of the four study states for helping us shape the study design, understand state policy and refine the report's recommendations.

We are indebted to each of the districts represented in our study and their staff members who provided invaluable assistance to us with data collection and interpretation. We are grateful for the commitment from district leadership and central office staff as well as leadership and staff at local teachers unions, all of whom invested many hours of their valuable time to provide us with data, information and local context.

Finally, we thank each of the approximately 15,000 teachers and 1,300 administrators who dedicated time to completing our surveys. Your opinions and thoughts continue to inspire us to work to ensure that each and every student has access to outstanding teachers.

Funding Support | Primary funding for this report was provided by the Robertson Foundation, the Bill & Melinda Gates Foundation and the Joyce Foundation. Additional funding was provided by the Carnegie Corporation of New York, the Laura and John Arnold Foundation, the Charles and Helen Schwab Foundation and the Walton Family Foundation. We thank all of our funders for their generous support; however, we acknowledge that the findings and recommendations presented in this report are those of the The New Teacher Project alone and do not necessarily reflect our funders' opinions or positions.

"There are at least 'several hundred' incompetents now in the school system [says the superintendent]. Other observers think there are several thousands, while still others insist that 'several' would be nearer the mark. Whether these incompetents were unfit to teach at any time, or have been rendered unfit by the passing years, is a matter of opinion. The question is, why are they allowed to remain?"[1]

So wrote The New York Times—in 1936.

In the 73 years since, we have made little progress toward answering the question of why poor instruction in our schools goes unaddressed. The question has been the subject of vigorous discussion, but most commentary has attempted to answer it by debating the failure of school districts to dismiss teachers who perform poorly.

The contours of this debate are well-known. One side claims that teacher tenure and due process protections render dismissal a practical impossibility, shielding ineffective teachers from removal in all but the most egregious instances. The other argues that the process provides only minimal protection against arbitrary or discriminatory dismissal, but that administrators fail to document poor performance adequately and refuse to provide struggling teachers with sufficient support. For decades these positions have remained largely unchanged.

The established arguments, however, fail to recognize that the challenge of addressing performance in the teaching profession goes far beyond the issue of dismissal. In fact, as this report illustrates, school districts fail to acknowledge or act on differences in teacher performance almost entirely. When it comes to officially appraising performance and supporting improvement, a culture of indifference about the quality of instruction in each classroom dominates.

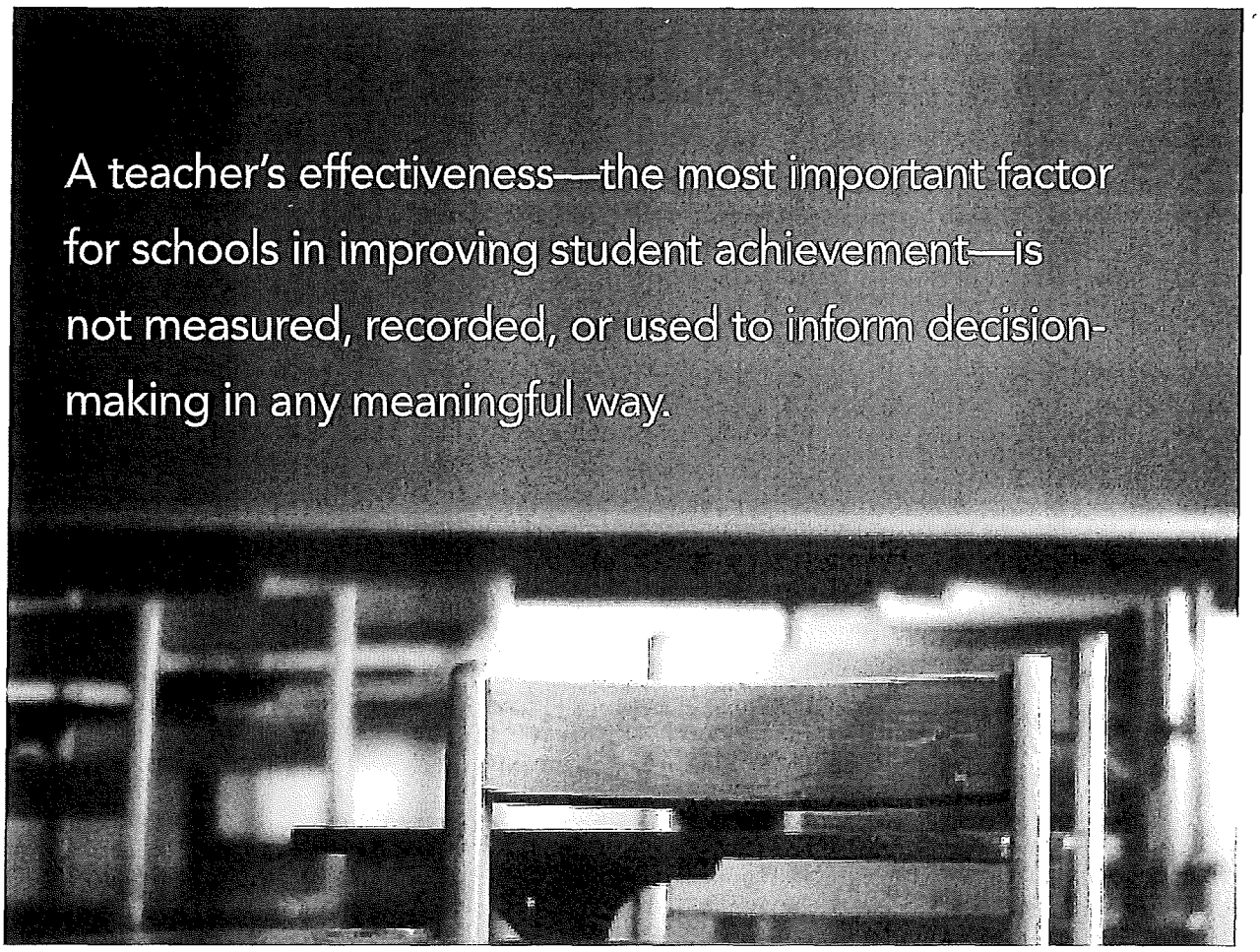
Our research confirms what is by now common knowledge: tenured teachers are identified as ineffective and dismissed from employment with exceptional infrequency. While an important finding in its own right, we have come to understand that infrequent teacher dismissals are in fact just one symptom of a larger, more fundamental crisis—the inability of our schools to assess instructional performance accurately or to act on this information in meaningful ways.

This inability not only keeps schools from dismissing consistently poor performers, but also prevents them from recognizing excellence among top-performers or supporting growth among the broad plurality of hard-working teachers who operate in the middle of the performance spectrum. Instead, school districts default to treating all teachers as essentially the same, both in terms of effectiveness and need for development.

Of course, as teachers themselves are acutely aware, they are not at all the same. Just like professionals in other fields, teachers vary. They boast individual skills, competencies and talents. They generate different responses and levels of growth from students.

In a knowledge-based economy that makes education more important than ever, teachers matter more than ever. This report is a call to action—to policy-makers, district and school leaders and to teachers and their representatives—to address our national failure to acknowledge and act on differences in teacher effectiveness once and for all. To do this, school districts must begin to distinguish great from good, good from fair, and fair from poor. Effective teaching must be recognized; ineffective teaching must be addressed.

Recently, President Obama spoke in bold terms about improving teacher effectiveness in just this way, saying, "If a teacher is given a chance or two chances or three chances but still does not improve, there is no excuse for that person to continue teaching. I reject a system that rewards failure and protects a person from its consequences. The stakes are too high. We can afford nothing but the best when it comes to our children's teachers and the schools where they teach."[2] We could not agree more. It is our hope that the recommendations contained in this report will outline a path to a better future for the profession.



EXECUTIVE SUMMARY

Suppose you are a parent determined to make sure your child gets the best possible education. You understand intuitively what an ample body of research proves: that your child's education depends to a large extent on the quality of her teachers. Consequently, as you begin considering local public schools, you focus on a basic question: who are the best teachers, and where do they teach?

The question is simple enough. There's just one problem—except for word of mouth from other parents, no one can tell you the answers.

In fact, you would be dismayed to discover that not only can no one tell you which teachers are most effective, they also cannot say which are the least effective or which fall in between. Were you to examine the district's teacher evaluation records yourself, you would find that, on paper, *almost every* teacher is a great teacher, even at schools where the chance of a student succeeding academically amounts to a coin toss, at best.

In short, the school district would ask you to trust that it can provide your child a quality education, even though it cannot honestly tell you whether it is providing her a quality teacher.

This is the reality for our public school districts nationwide. Put simply, they fail to distinguish great teaching from good, good from fair, and fair from poor. A teacher's effectiveness—the most important factor for schools in improving student achievement—is not measured, recorded, or used to inform decision-making in any meaningful way.

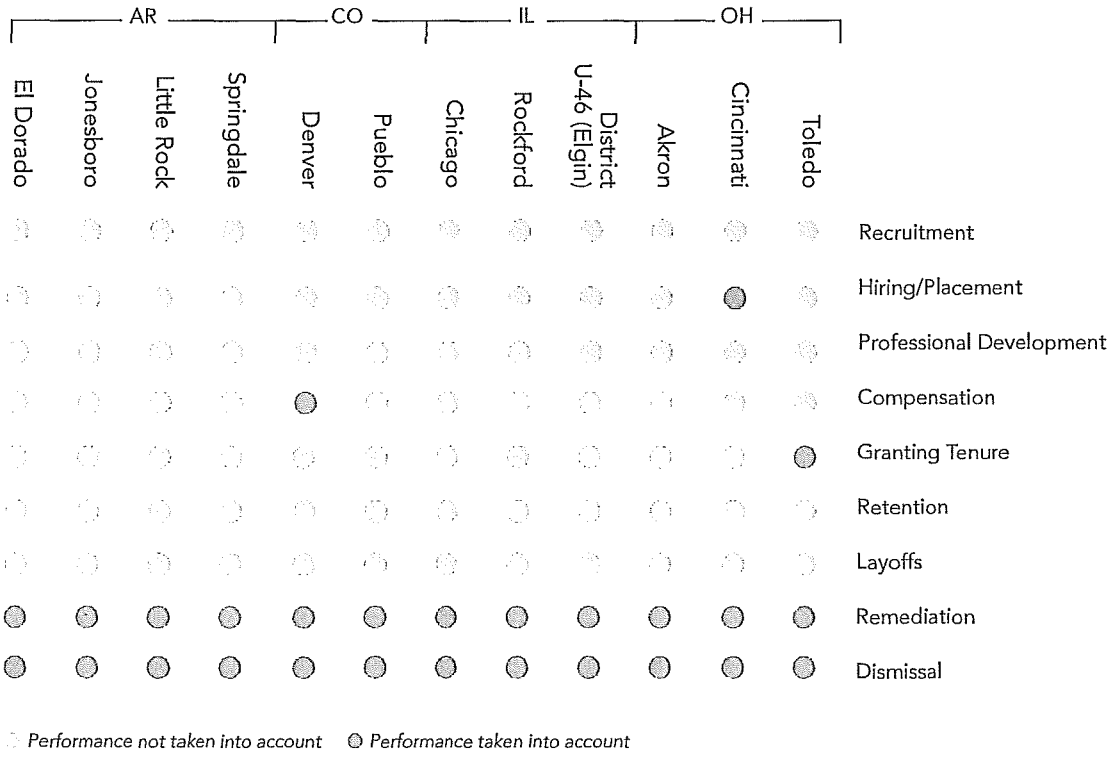
The Widget Effect

This report examines our pervasive and longstanding failure to recognize and respond to variations in the effectiveness of our teachers. At the heart of the matter are teacher evaluation systems, which in theory should serve as the primary mechanism for assessing such variations, but in practice tell us little about how one teacher differs from any other, except teachers whose performance is so egregiously poor as to warrant dismissal.

The failure of evaluation systems to provide accurate and credible information about individual teachers' instructional performance sustains and reinforces a phenomenon that we have come to call the **Widget Effect.** The Widget Effect describes the tendency of school districts to assume classroom effectiveness is the same from teacher to teacher. This decades-old fallacy fosters an environment in which teachers cease to be understood as individual professionals, but rather as interchangeable parts. In its denial of individual strengths and weaknesses, it is deeply disrespectful to teachers; in its indifference to instructional effectiveness, it gambles with the lives of students.

Today, the Widget Effect is codified in a policy framework that rarely considers teacher effectiveness for key decisions, as illustrated below.

Where Is Performance a Factor in Important Decisions About Teachers?*



The fact that information on teacher performance is almost exclusively used for decisions related to teacher remediation and dismissal paints a stark picture: In general, our schools are indifferent to instructional effectiveness—except when it comes time to remove a teacher.

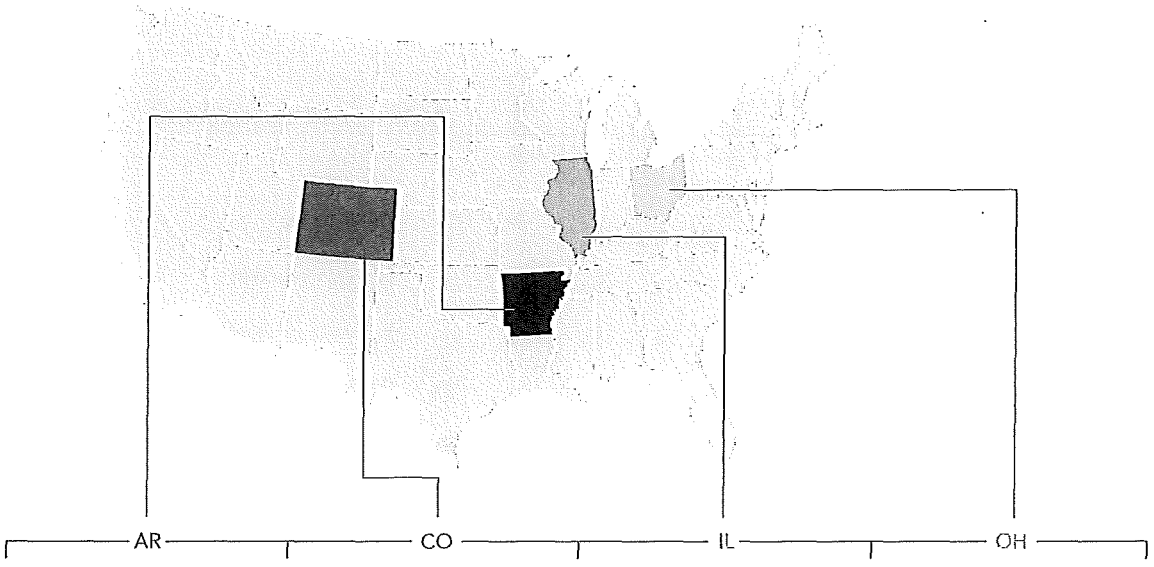
* See "Policy Implications of the Widget Effect" for additional information

Study Overview

This report is the product of an extensive research effort spanning 12 districts and four states. It reflects survey responses from approximately 15,000 teachers and 1,300 administrators, and it has benefited from the insight of more than 80 local and state education officials, teachers union leaders, policymakers and advocates who participated in advisory panels in each state, shaping the study design, data collection instruments, and findings and recommendations.

The four states included in the study, Arkansas, Colorado, Illinois and Ohio, employ diverse teacher performance management policies. The 12 districts studied range in size, geographic location, evaluation policies and practices and overall approach to teacher performance management. Jonesboro Public Schools, the smallest district studied, serves approximately 4,450 students; Chicago Public Schools, the largest, serves 413,700. All 12 districts employ some formal evaluation process for teachers, but the methods and frequency of evaluation differ. The outcomes, however, are strikingly similar.

Study Sites*



AR	CO	IL	OH
El Dorado Public Schools	Denver Public Schools	Chicago Public Schools	Akron Public Schools
Jonesboro Public Schools	Pueblo City Schools	District U-46 (Elgin)	Cincinnati Public Schools
Little Rock School District		Rockford Public Schools	Toledo Public Schools
Springdale Public Schools			

*For more information on the study sites, please see *Methodology*.

Characteristics of the Widget Effect in Teacher Evaluation

The Widget Effect is characterized by institutional indifference to variations in teacher performance. Teacher evaluation systems reflect and reinforce this indifference in several ways.

All teachers are rated good or great

In districts that use binary evaluation ratings (generally "satisfactory" or "unsatisfactory"), more than 99 percent of teachers receive the satisfactory rating. Districts that use a broader range of rating options do little better; in these districts, 94 percent of teachers receive one of the top two ratings and less than 1 percent are rated unsatisfactory.

Excellence goes unrecognized

When all teachers are rated good or great, those who are truly exceptional cannot be formally identified. Fifty-nine percent of teachers and 63 percent of administrators say their district is not doing enough to identify, compensate, promote and retain the most effective teachers.

Inadequate professional development

The failure to assess variations in instructional effectiveness also precludes districts from identifying specific development needs in their teachers. In fact, 73 percent of teachers surveyed said their most recent evaluation did not identify any development areas, and only 45 percent of teachers who did have development areas identified said they received useful support to improve.

No special attention to novices

Inattention to teacher performance and development begins from a teacher's first days in the classroom. Though it is widely recognized that teachers are least effective in their beginning years, 66 percent of novice teachers in districts with multiple ratings received a rating greater than "satisfactory" on their most recent performance evaluation. Low expectations characterize the tenure process as well, with 41 percent of administrators reporting that they have never "non-renewed" a probationary teacher for performance concerns in his or her final probationary year.

Poor performance goes unaddressed

Despite uniformly positive evaluation ratings, teachers and administrators both recognize ineffective teaching in their schools. In fact, 81 percent of administrators and 57 percent of teachers say there is a tenured teacher in their school who is performing poorly, and 43 percent of teachers say there is a tenured teacher who should be dismissed for poor performance. Troublingly, the percentages are higher in high-poverty schools. But district records confirm the scarcity of formal dismissals; at least half of the districts studied did not dismiss a single non-probationary teacher for poor performance in the time period studied (ranging from two to five years in each district).

Flaws in Evaluation Practice and Implementation

The characteristics above are exacerbated and amplified by cursory evaluation practices and poor implementation. Evaluations are short and infrequent (most are based on two or fewer classroom observations, each 60 minutes or less), conducted by administrators without extensive training, and influenced by powerful cultural forces—in particular, an expectation among teachers that they will be among the vast majority rated as top performers.

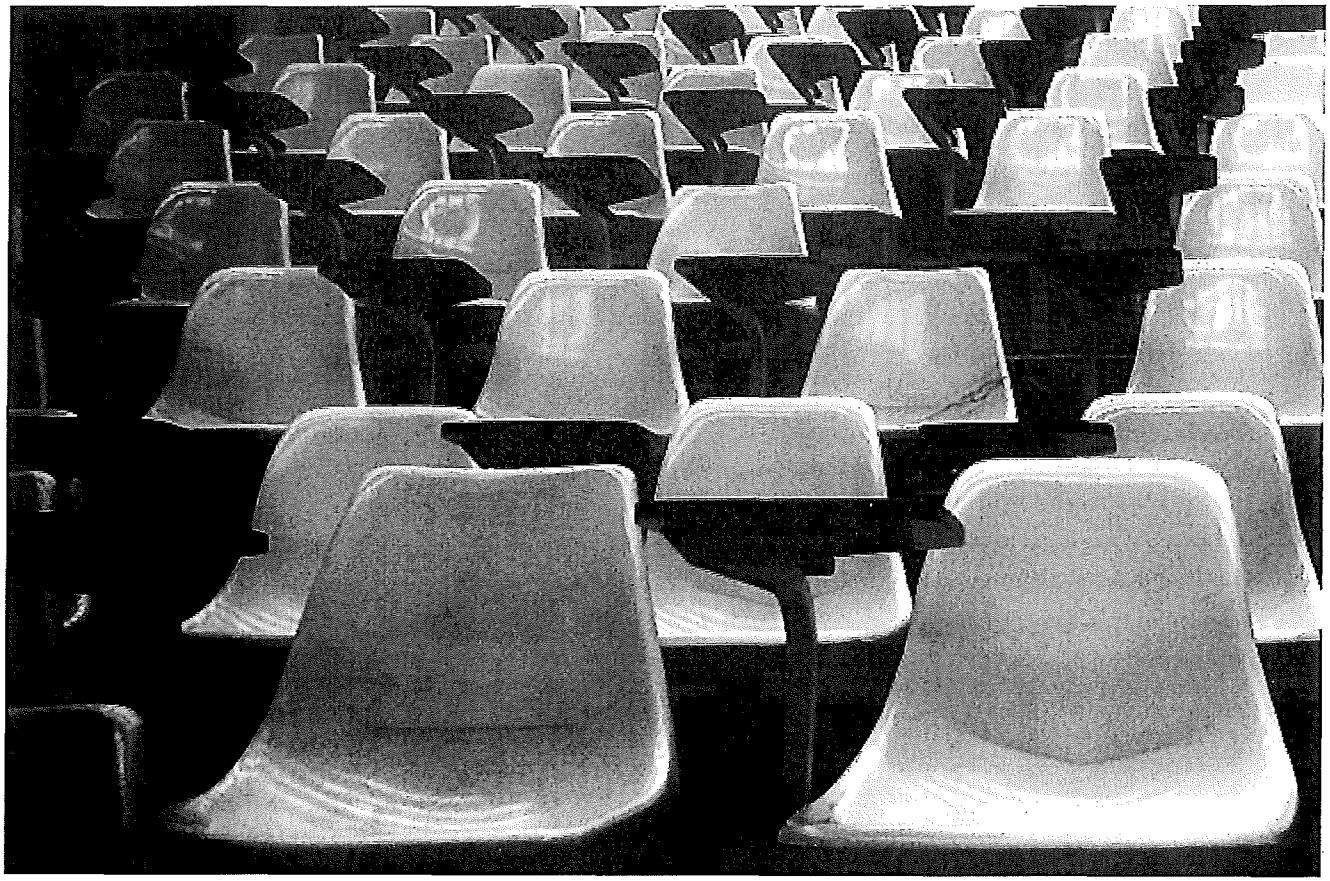
While it is impossible to know whether the system drives the culture or the culture the system, the result is clear—evaluation systems fail to differentiate performance among teachers. As a result, teacher effectiveness is largely ignored. Excellent teachers cannot be recognized or rewarded, chronically low-performing teachers languish, and the wide majority of teachers performing at moderate levels do not get the differentiated support and development they need to improve as professionals.

Reversing the Widget Effect

The Widget Effect is deeply ingrained in the fundamental systems and policies that govern the teachers in our public schools. Better evaluation systems may offer a partial solution, but they will not overcome a culture of indifference to classroom effectiveness. Reversing the Widget Effect depends on better information about instructional quality that can be used to inform other important decisions that dictate who teaches in our schools.

01 | Adopt a comprehensive performance evaluation system that fairly, accurately and credibly differentiates teachers based on their effectiveness in promoting student achievement. Teachers should be evaluated based on their ability to fulfill their core responsibility as professionals—delivering instruction that helps students learn and succeed. This demands clear performance standards, multiple rating options, regular monitoring of administrator judgments, and frequent feedback to teachers. Furthermore, it requires professional development that is tightly linked to performance standards and differentiated based on individual teacher needs. The core purpose of evaluation must be maximizing teacher growth and effectiveness, not just documenting poor performance as a prelude to dismissal.

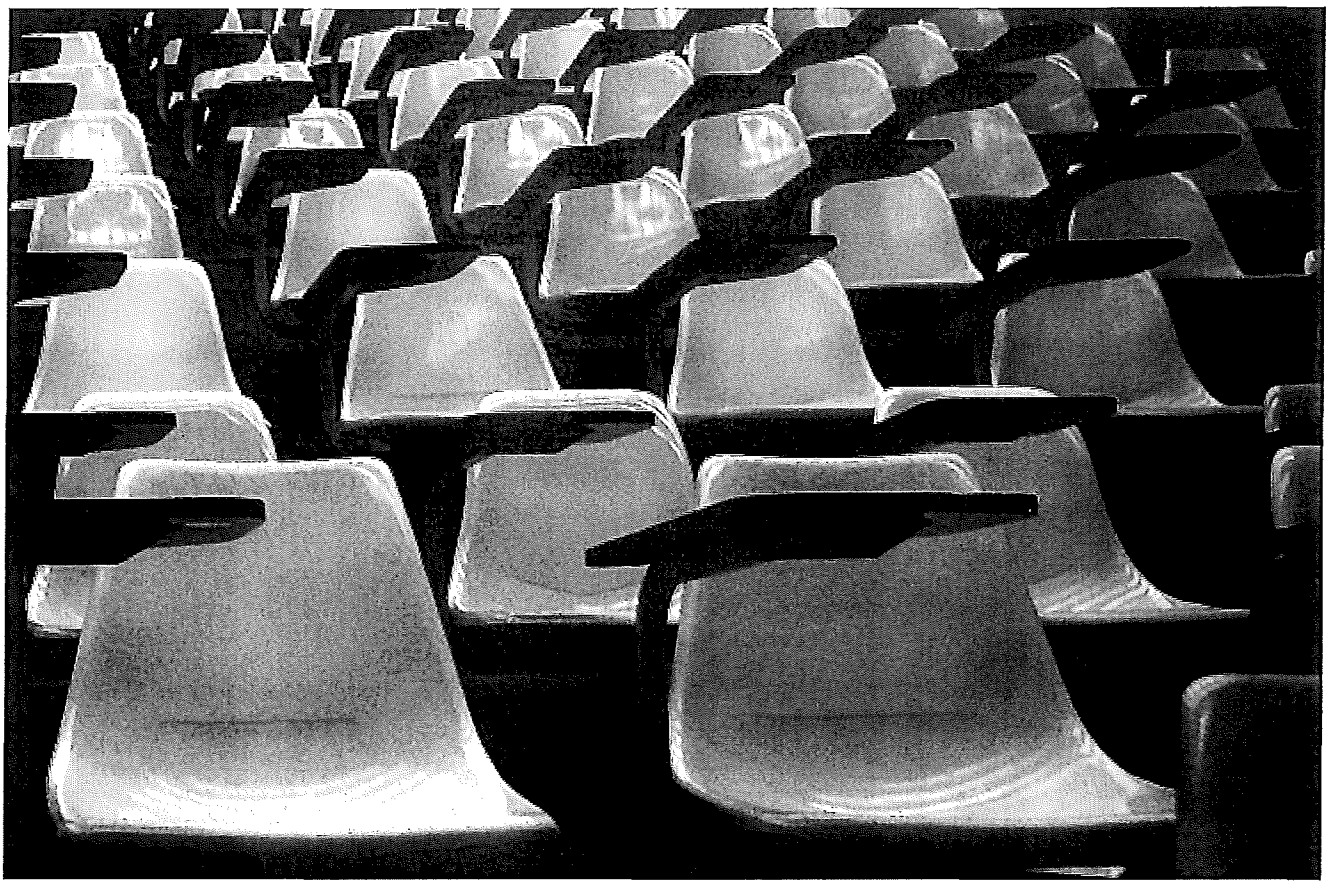
02 | Train administrators and other evaluators in the teacher performance evaluation system and hold them accountable for using it effectively. The differentiation of teacher effectiveness should be a priority for school administrators and one for which they are held accountable. Administrators must receive rigorous training and ongoing support so that they can make fair and consistent assessments of performance against established standards and provide constructive feedback and differentiated support to teachers.



03 | Integrate the performance evaluation system with critical human capital policies and functions such as teacher assignment, professional development, compensation, retention and dismissal. Even the best evaluation system will fail if the information it produces is of no consequence. An effective evaluation system must be fully integrated with other district systems and policies and a primary factor in decisions such as which teachers receive tenure, how teachers are assigned and retained, how teachers are compensated and advanced, what professional development teachers receive, and when and how teachers are dismissed. Only by attaching stakes to evaluation outcomes will teachers and administrators invest in the hard work of creating a truly rigorous and credible evaluation system.

04 | Adopt dismissal policies that provide lower-stakes options for ineffective teachers to exit the district and a system of due process that is fair but efficient. If the evaluation system is implemented effectively, unsatisfactory ratings will not be anomalous, surprising or without clear justification. Likewise, the identification of development areas and the provision of support will be continual. As in other professions, teachers who see significant, credible evidence of their own failure to meet standards are likely to exit voluntarily. Districts can facilitate this process by providing low-stakes options that enable teachers to leave their positions without being exiled. For teachers who must be officially dismissed, an expedited, one-day hearing should be sufficient for an arbitrator to determine if the evaluation and development process was followed and judgments made in good faith.

Our recommendations outline a comprehensive approach to improving teacher effectiveness and maximizing student learning. If implemented thoroughly and faithfully, we believe they will enable districts to understand and manage instructional quality with far greater sophistication. Improved evaluation will not only benefit students by driving the systematic improvement and growth of their teachers, but teachers themselves, by at last treating them as professionals, not parts.



THE PROBLEM: TEACHERS AS INTERCHANGEABLE PARTS

Teaching is the essence of education, and there is almost universal agreement among researchers that teachers have an outsized impact on student performance. We know that improving teacher quality is one of the most powerful ways—if not *the* most powerful way—to create better schools. In fact, a student assigned to a very good teacher for a single school year may gain up to a full year's worth of additional academic growth compared to a student assigned to a very poor teacher. Having a series of strong or weak teachers in consecutive years compounds the impact. Give high-need students three highly effective teachers in a row and they may outperform students taught by three ineffective teachers in a row by as much as 50 percentile points.[3]

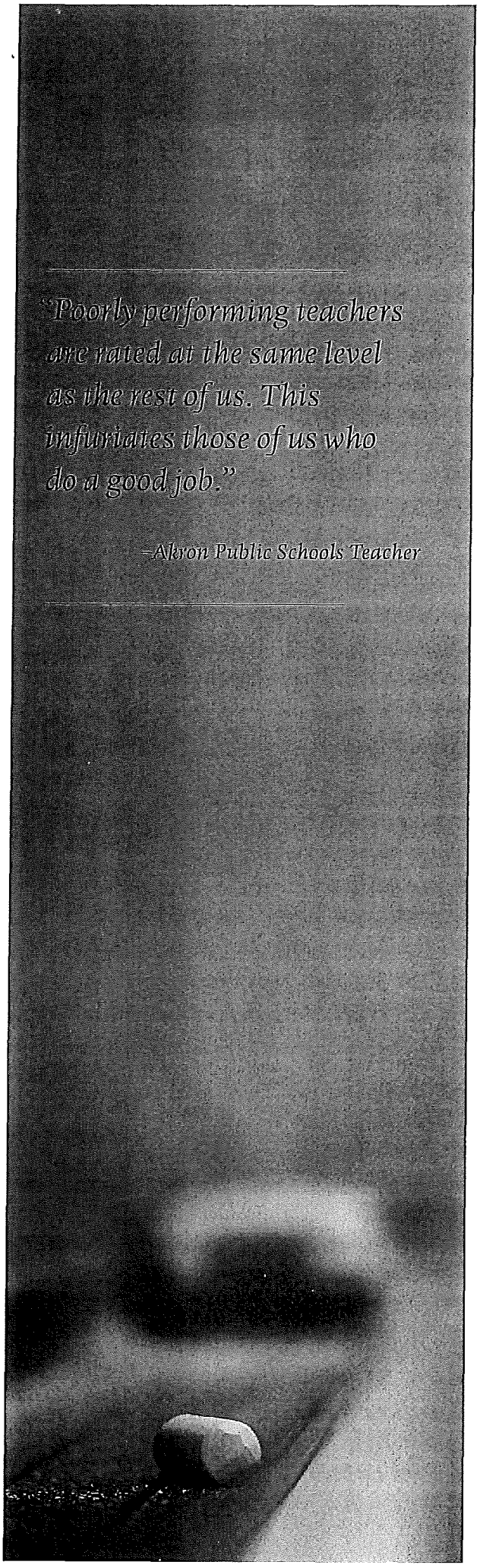
The lesson from these decades of research is clear: teachers matter. Some teachers are capable of generating exceptional learning growth in students; others are not, and a small group actually hinders their students' academic progress.

This simple premise—that teachers matter—has driven The New Teacher Project's prior research and continues to drive our work today. Our 2003 report, *Missed Opportunities: How We Keep High-Quality Teachers Out of Urban Classrooms,* documented how vacancy notification policies, rigid staffing rules and late budget timelines caused urban districts to hire too late to capture the highest-quality teacher applicants. Our 2005 report, *Unintended Consequences: The Case for Reforming the Staffing Rules in Urban Teachers Union Contracts,* illustrated how contractual staffing rules, built around the assumption that any teacher could fill any vacancy, forced schools to hire teachers they did not want and teachers to take positions for which they might not be a good fit.

Each of these reports in its own way documented a flawed assumption that has pervaded American educational policy for decades—the assumption that teachers are interchangeable parts. We have come to call this phenomenon the **Widget Effect.** In the presence of the Widget Effect, school systems wrongly conflate educational access with educational *quality;* the only teacher quality goal that schools need to achieve is to fill all of their positions. It becomes a foregone conclusion that, so long as there is an accredited teacher—any teacher—in front of the classroom, students are being served adequately.

In the presence of the Widget Effect, school systems wrongly conflate educational access with educational *quality.*

While the Widget Effect pervades many aspects of our education system, it is in teacher evaluation that both its architecture and its consequences are most immediately apparent. In this report, we examine the central role that the design and implementation of teacher evaluation systems play in creating and reinforcing the Widget Effect; how teacher and administrator beliefs about evaluation illustrate the Widget Effect at work; and how the Widget Effect fuels a policy framework that ignores both strong and weak teacher performance. In the absence of meaningful performance information, teacher effectiveness is treated as a constant, not a variable, and school districts must instead rely on other considerations—many of them unrelated to student academic success—to make critical workforce decisions.



"Poorly performing teachers are rated at the same level as the rest of us. This infuriates those of us who do a good job."

–Akron Public Schools Teacher

CHARACTERISTICS: THE WIDGET EFFECT IN TEACHER EVALUATION

The Widget Effect is rooted in the failure of teacher evaluation systems to produce meaningful information about teacher effectiveness. In theory, an evaluation system should identify and measure individual teachers' strengths and weaknesses accurately and consistently, so that teachers get the feedback they need to improve their practice and so that schools can determine how best to allocate resources and provide support. In practice, teacher evaluation systems devalue instructional effectiveness by generating performance information that reflects virtually no variation among teachers at all.

This fundamental failing has a deeply insidious effect on teachers and schools by institutionalizing indifference when it comes to performance. As a result, important variations between teachers vanish. Excellence goes unrecognized, development is neglected and poor performance goes unaddressed.

All Teachers Are Rated Good or Great

The disconnect between teacher evaluation systems and actual teacher performance is most strikingly illustrated by the wide gap between student outcomes and teacher ratings in many districts. Though thousands of teachers included in this report teach in schools where high percentages of students fail year after year to meet basic academic standards, less than one percent of surveyed teachers received a negative rating on their most recent evaluation.[4]

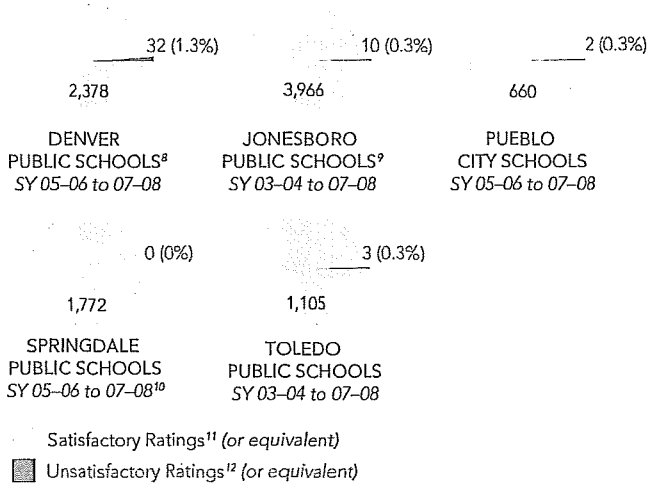
This is not to say that responsibility for a failing school rests on the shoulders of teachers alone, or that none of these teachers demonstrated truly high performance; however, there can be no doubt that these ratings dramatically overstate the number of exemplary teachers and understate the number with moderate and severe performance concerns. These data simultaneously obscure poor performance and overlook excellence, as the value of superlative teacher ratings is rendered meaningless by their overuse.

To a large degree, teacher evaluation systems codify this whitewashing of performance differences, beginning with the rating categories themselves. Five of the ten districts in this study with available teacher evaluation rating data[5] use a binary rating system for assessing teacher performance;

teachers are categorized as either "satisfactory" or "unsatisfactory."[6] There are no shades of gray to describe nuances in performance.

As *Figure 01* illustrates, in districts that use binary ratings, virtually all tenured[7] teachers (more than 99 percent) receive the satisfactory rating; the number receiving an unsatisfactory rating amounts to a fraction of a percentage. In these districts, it makes little difference that two ratings are available; in practice only one is ever used.

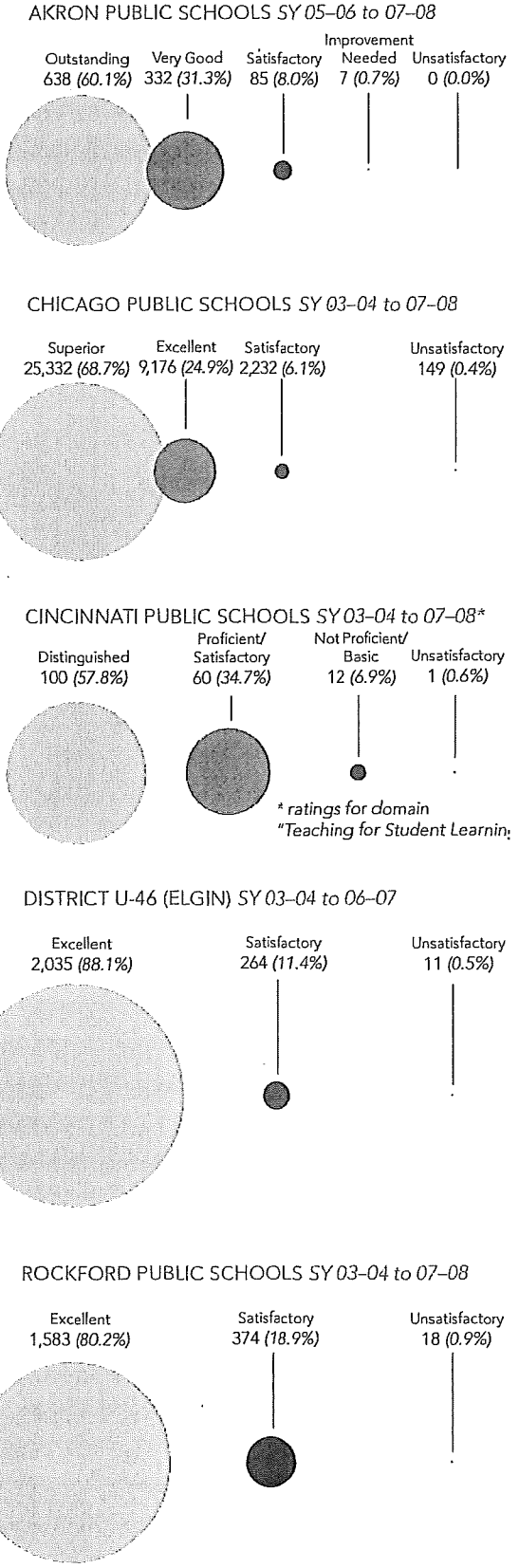
FIGURE 01 | Evaluation Ratings for Tenured Teachers in Districts with Binary Rating Systems*



One might hope that teacher evaluation systems that employ a broader range of rating options would more accurately reflect the performance differences among teachers. However, even when given multiple ratings from which to choose, evaluators in all districts studied rate the majority of teachers in the top category, rather than assigning the top rating to only those teachers who actually outperform the majority of their peers. As illustrated in *Figure 02,* in the five districts with multiple teacher evaluation ratings for which data were available,[13] 70 percent of tenured teachers still received the highest rating.[14] Another 24 percent received the second-highest rating.

While districts using multiple rating systems do show some additional variability in teacher evaluation beyond those using binary rating systems, districts with four or more ratings still assign tenured teachers the lowest two rating options in one out of 16 cases.[15] In each case, the basic outcome remains true: almost no teachers are identified as delivering unsatisfactory instruction.

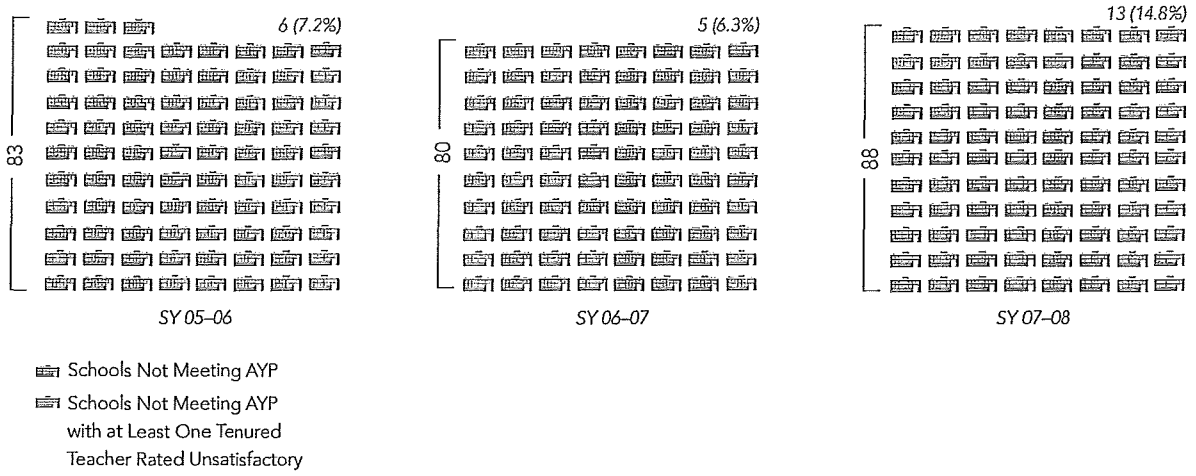
FIGURE 02 | Evaluation Ratings for Tenured Teachers in Districts with Multiple-Rating Systems*



*Note: Evaluation rating data in *Figures 01* and *02* were collected from each district. Data are as accurate as the records provided to TNTP for this study.

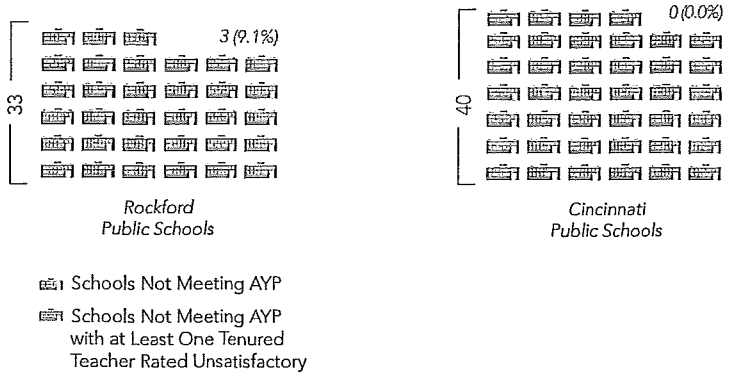
These data often stand in sharp relief against current levels of student achievement. For example, in Denver schools that did not make adequate yearly progress (AYP), more than 98 percent of tenured teachers received the highest rating—satisfactory.[16] On average, over the last three years, only 10 percent[17] of failing schools issued at least one unsatisfactory rating to a tenured teacher.

FIGURE 03 | Frequency of Unsatisfactory Ratings in Denver Public Schools that Did Not Meet AYP[18]



These findings are consistent with a one year snapshot of data from other districts. Less than 10 percent of Rockford's failing schools rated a tenured teacher unsatisfactory in 2007–08, and none of Cincinnati's failing schools did.

FIGURE 04 | Rockford Public Schools & Cincinnati Public Schools AYP Data *(SY07–08)*[19]



Moreover, it is important to note that performance simply goes untracked for a subset of teachers. In some cases, this is systemic. One of the 12 districts studied does not centrally track or record any evaluation data at all. However, in many other cases, it reflects the perfunctory nature of the evaluation system itself, as 9 percent of teachers surveyed appear to have missed their most recent scheduled evaluation.[20]

Excellence Goes Unrecognized

In a world where all teachers are rated as good or great, the truly outstanding teachers—those who are realizing life-changing academic success for their students—cannot be formally identified. And if they are not formally identified, schools cannot prioritize their retention or leverage them to develop and improve their colleagues.

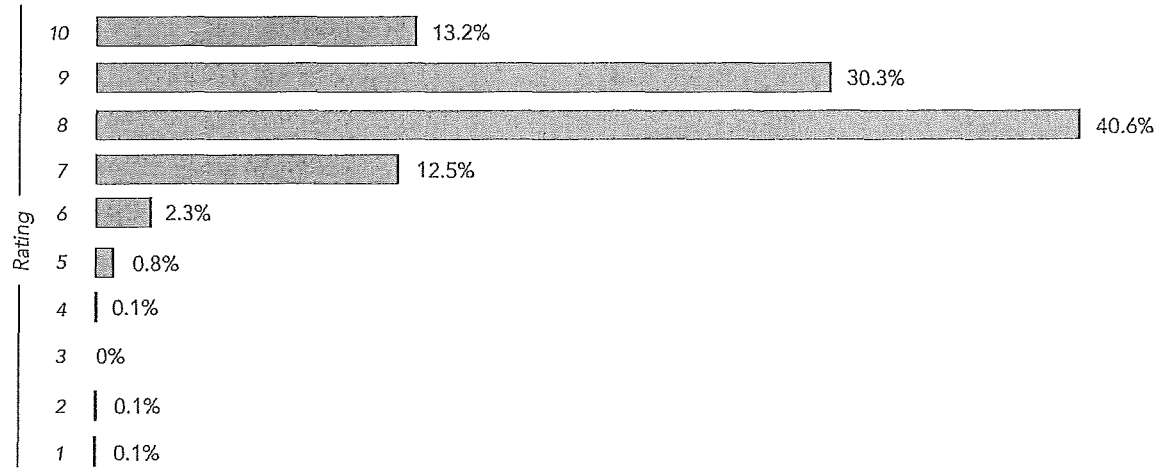
"There is no recognition for teachers who are doing an exemplary job."

-Chicago Public Schools Teacher

In theory, districts should be able to identify their top performers by awarding them the highest rating on the evaluation scale, but as previously illustrated, the highest rating is awarded to many more teachers than can possibly fall into this category. The dilution of the highest rating category is reflected in teacher and administrator perceptions about how this category is defined. Nearly a quarter of administrators (24 percent) and nearly a fifth of teachers (18 percent) equate their district's highest rating with a teacher who is merely effective or even somewhat effective, rather than seeing that rating as reserved for those who are truly exceptional.[21]

In the absence of a mechanism for identifying and rewarding outstanding performers, the average effort becomes the bar for the mark of excellence. In a subset of districts[22] where teachers were asked to rate their instructional performance on a scale from 1 to 10, more than 43 percent rated themselves a 9 or higher *(see Figure 05)*. These teachers are not irrationally inflating their estimate of their teaching performance; they are simply responding to an environment in which all are assumed to be superior performers.

FIGURE 05 | Teacher Assessments of Their Own Instructional Performance
ON A SCALE OF 1 TO 10, HOW WOULD YOU RATE YOUR INSTRUCTIONAL PERFORMANCE?



If districts could systematically identify which teachers perform at the highest level, they could use this information to inform teaching assignments, target teachers for teacher leader positions, and prioritize the retention of these teachers. In the absence of this information, however, excellence cannot be recognized or rewarded. As in other areas studied, there is broad agreement among teachers and administrators that this is a problem. Fifty-nine percent of teachers and 63 percent of administrators from the four study sites where we surveyed more deeply on the topic report their district is not doing enough to identify, compensate, promote and retain the most effective teachers.[23]

Development Is Limited

The damage of ignoring differences in teacher effectiveness is not isolated to the limited recognition of excellence; an equally troubling consequence is that teachers rarely receive meaningful feedback on their performance through the formal evaluation system. In the 12 districts studied, development areas were identified for only 26 percent of teachers during their most recent evaluations.[24]

In other words, nearly 3 of 4 teachers went through the evaluation process but received no specific feedback about how to improve their practice. This is true even for novice teachers who are most in need of actionable feedback as they learn their craft—only 43 percent of teachers in their first four years had any development areas identified. It is inconceivable that 74 percent of teachers, and 57 percent of teachers in their first four years, do not require improvement in any area of performance.

Some may argue that administrators prefer to give teachers critical feedback outside the formal evaluation process. However, 47 percent[25] of teachers report not having participated in a single informal conversation with their administrator over the last year about improving aspects of their instructional performance. In addition, of the relatively small group of teachers who had a performance area identified as in need of improvement or unsatisfactory, 62 percent said they were not aware of performance concerns before their evaluation.[26]

This suggests that many administrators do not regularly or proactively offer feedback on instructional performance outside of the formal evaluation process.

While districts often fail to identify areas where teachers are in need of improvement, they also fail to provide targeted support to the subset of teachers who have had development areas identified. Less than half (45 percent[27]) of teachers across all districts who had development areas identified on their most recent evaluations said they received useful support to improve those areas.

Constructive feedback that specifies areas for development is a critical facet of any performance evaluation, even for strong performers. In theory, even if virtually all teachers are rated as good or great, their evaluations could provide them with valuable feedback they could use to improve their instructional practice. However, that theoretical potential currently goes unrealized and teachers are too often denied both the knowledge and the opportunity to improve.

As a result, it is not surprising that so many teachers believe that the current evaluation system, and the absence of meaningful feedback it produces, does them a disservice. Only 42 percent of teachers agree that evaluation allows accurate assessment of performance and only 43 percent of teachers agree that evaluation helps teachers improve.[28]

"The evaluation process should have teacher development as the primary goal, not just assigning a number on a rubric. As it is set up now, there is no immediate feedback to the teacher in any constructive format. Scores are based on rigid, often meaningless recitations. It is the epitome of poor teaching methods to give a score without discussion."

–Cincinnati Public Schools Teacher

Novice Teachers Receive No Special Attention or Scrutiny[29]

One could argue teacher ratings are so high and development is so limited because probationary teachers undergo a rigorous screening process through which weak performers are weeded out. According to this line of argument, all the poorly performing teachers were effectively ushered out while they were still novices. Yet as illustrated in *Figure 06*, our research found no evidence that teachers are subject to a rigorous screening process during their probationary periods; only a fraction of teachers are "non-renewed" by the districts when they have the opportunity to do so.

As a result, though the awarding of tenure status has the potential to recognize effective teaching and to transition out teachers who are unable to reach a reasonable performance standard, in practice there is no observable rigor applied to the tenure decision. It is not surprising that many administrators (41 percent) report that they have never non-renewed a teacher in his or her final probationary year because they found that teacher's performance unworthy of tenure. Moreover, 76 percent[30] of novice teachers express confidence that they will receive tenure even before they have completed the probationary period, often because they have consistently received superlative ratings—even as first-year teachers.

This lack of rigor also leads to a limited focus on development for novice teachers. Though it is widely recognized that teachers are less effective in their first years in the classroom, differences in performance tend to go unremarked from the very beginning of a teacher's career. Novice teachers begin receiving the highest rating when they start their career or within a few years of being hired, with 66 percent of novice teachers in districts with multiple ratings receiving a rating greater than "satisfactory" on their most recent performance evaluation.[31] By giving novice teachers high ratings from the day they begin teaching, schools communicate inattention to and low expectations for instructional performance. Furthermore, they miss a critical window of opportunity to focus new teachers on their instructional strengths and

"New teachers are given so little support in my district that sometimes they are simply doomed to fail. Yet, no one notices and they finish their probationary status without a negative evaluation."

-Denver Public Schools Teacher

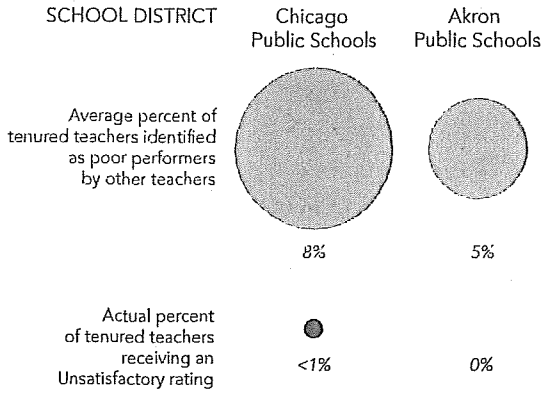
FIGURE 06 | Non-renewal Patterns of Probationary Teachers[32]

SCHOOL DISTRICT	Number of non-renewals for performance in 5 years	Average percent of probationary teachers non-renewed for performance each year
Denver[33] Public Schools	132	3.0%
Jonesboro Public Schools	0	0.0%
Chicago[34] Public Schools	29	0.1%
District U-46 (Elgin)	28	0.9%
Toledo Public Schools[35]	7	0.9%
Cincinnati Public Schools	7	0.1%

"I think it gives the hard working, honest teachers a bad reputation being lumped together with a group of sub-par teachers. What's even worse is that our principal does absolutely nothing about any of this."

-Akron Public Schools Teacher

FIGURE 07 | Percent of Poor Performers Teachers Observe in Their Schools vs. Percent of Teachers Given an Unsatisfactory Rating[36]



weaknesses during a formative point in their careers. Instead of getting meaningful feedback about what they are doing right and wrong in their instructional practice, new teachers mostly get the message that their actual performance has little bearing on how they are rated.

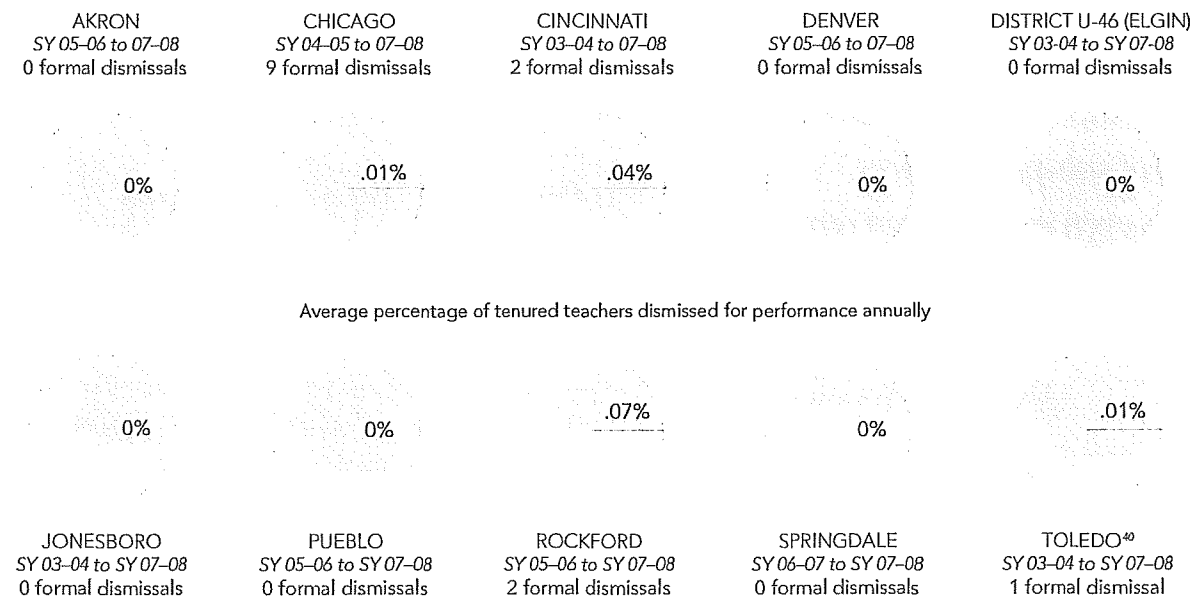
Poor Performance Goes Unaddressed

It goes without saying that teacher dismissal has become a polarizing issue in the education community; however, we found that teachers and administrators broadly agree about the existence and scope of the problem and about what steps need to be taken to address poor performance in schools. In fact, an overwhelming majority of both teachers (68 percent) and administrators (91 percent) agree or strongly agree that dismissing poor performers is important to maintaining high-quality instructional teams. This may seem self-evident, but it suggests a consensus that teacher performance management should entail accountability, not just development.

In the four districts where we surveyed more deeply, teachers and administrators agree that there is a small but significant subset of teachers who perform poorly, with 81 percent of administrators and 57 percent of teachers reporting that there is a tenured teacher in their school who delivers poor instruction.[37] In *Figure 07*, we examine the levels of poor instructional performance teachers observe in their schools and compare it to the actual number of unsatisfactory ratings given in Chicago and Akron.[38] The data confirm what teachers and school administrators report—the number of teachers identified as unsatisfactory is miniscule and far lower than the percentage of poor performers observed by their colleagues.

Moreover, 43 percent of teachers across all districts believe that there is a tenured teacher in their school who should be *dismissed* for poor instructional performance but has not been. Yet experienced teachers are almost never actually dismissed for poor performance. Most administrators have not initiated the dismissal of a single tenured teacher in the past five years.[39] In fact, the number of dismissals for performance in each district studied can be counted in the single digits, if at all.

FIGURE 08 | Frequency of Tenured Teacher Dismissals for Performance

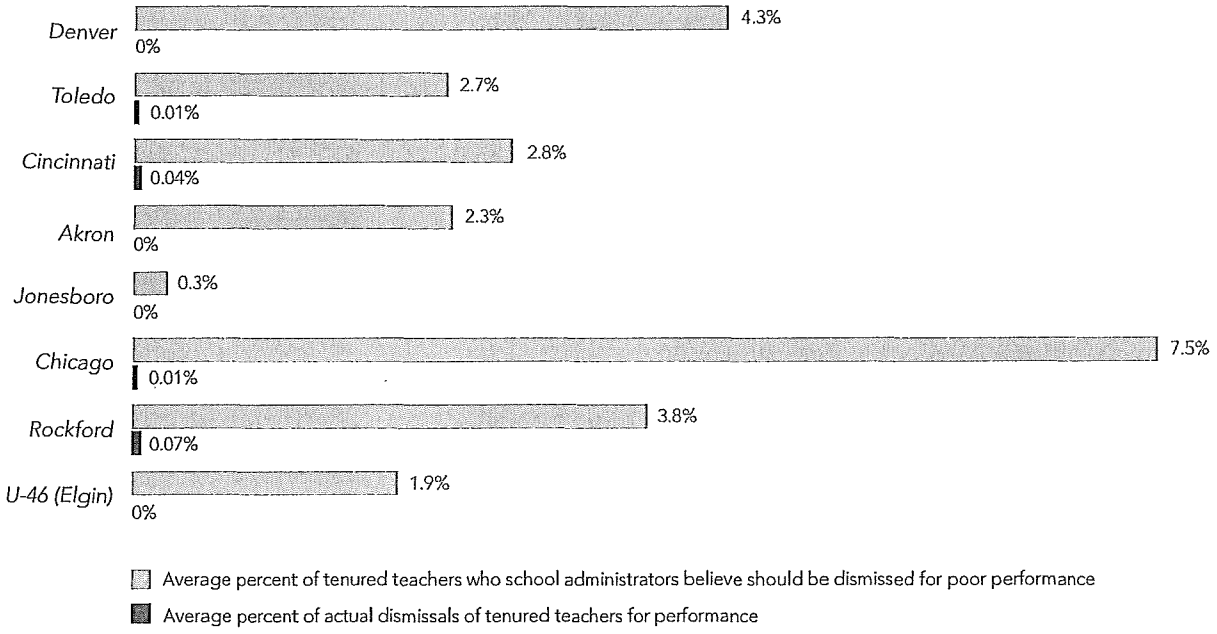


Note: Teacher dismissal for performance data was collected from ten districts, representing some combination of school years 2003-04 through 2007-08.[41]

It is not surprising then that most teachers (68 percent[42]) believe that poor performance is overlooked by administrators. This is essentially confirmed by administrators themselves, 86 percent[43] of whom say they do not always pursue dismissal even if it is warranted. School administrators appear to be deterred from pursuing remediation and dismissal because they view the dismissal process as overly time consuming and cumbersome, and the outcomes for those who do invest the time in the process is uncertain. Even for the small number of administrators that actually do attempt the process, fully half report that it yielded an outcome other than dismissal.

While all of the districts studied share the goal of an evaluation system that can identify instances of ineffective performance so administrators can properly intervene, the data make clear that this does not occur. Despite the fact that teachers and administrators report that poor performance is commonplace, intervention appears to be extremely rare when compared to the scope of the problem *(see Figure 09)*. We are left to conclude that current systems for managing teacher performance fail to function on the most basic level—addressing poor instructional performance.

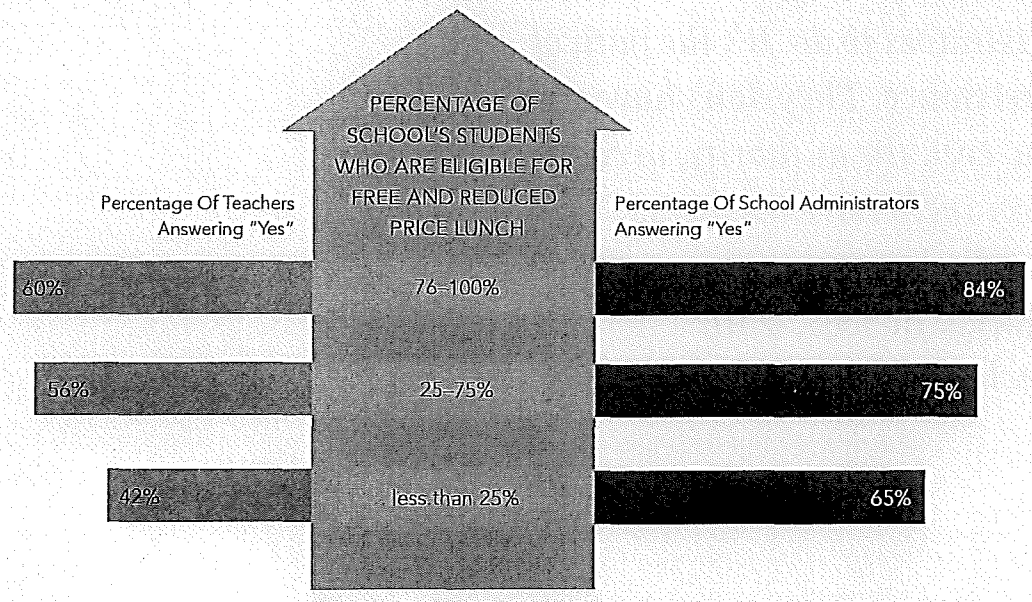
FIGURE 09 | Perceived Need for Dismissals vs. Actual Dismissals, by District



The Impact on High-Need Schools

Though poor performance goes unaddressed in most schools, our data indicate that the problem is most acute in the highest-need schools. These data are consistent across multiple districts[11] and with research that reflects that poor and minority children, who have the greatest need for effective teachers, are least likely to get them.

FIGURE 10 | In your opinion, are there tenured teachers in your school who deliver poor instruction?



FLAWS IN EVALUATION PRACTICE AND IMPLEMENTATION

While most teacher evaluation systems espouse grand intentions for teacher development, assessment and improvement, the data above show that all too often the outcome fails to equal the intent. Instead, the process becomes devalued. Evaluations are perfunctory, school districts do not invest in administrator capacity to provide meaningful feedback, and teachers come to expect that they will receive only positive feedback.

Teacher Evaluations Are Perfunctory

The current evaluation process reflects and codifies the assumption underlying the Widget Effect—that all teachers are essentially interchangeable. Operating under a belief system that one teacher is as good as any other, schools invest very little time or effort in evaluating teachers. Instead, they apply a perfunctory process, at best designed to capture a snapshot of a teacher's instructional performance at a moment in time. Across the four states studied, all probationary teachers must be evaluated annually; however, tenured teachers may not be required to be evaluated at all, or only once every few years.

"It's the easiest thing for administrators to do. It's the path of least resistance. They don't have time or often, even the authority, to coach or correct ineffective teachers. The good teachers remain unrewarded for doing fantastic jobs, while bad teachers get to coast along."

–Little Rock Public Schools Teacher

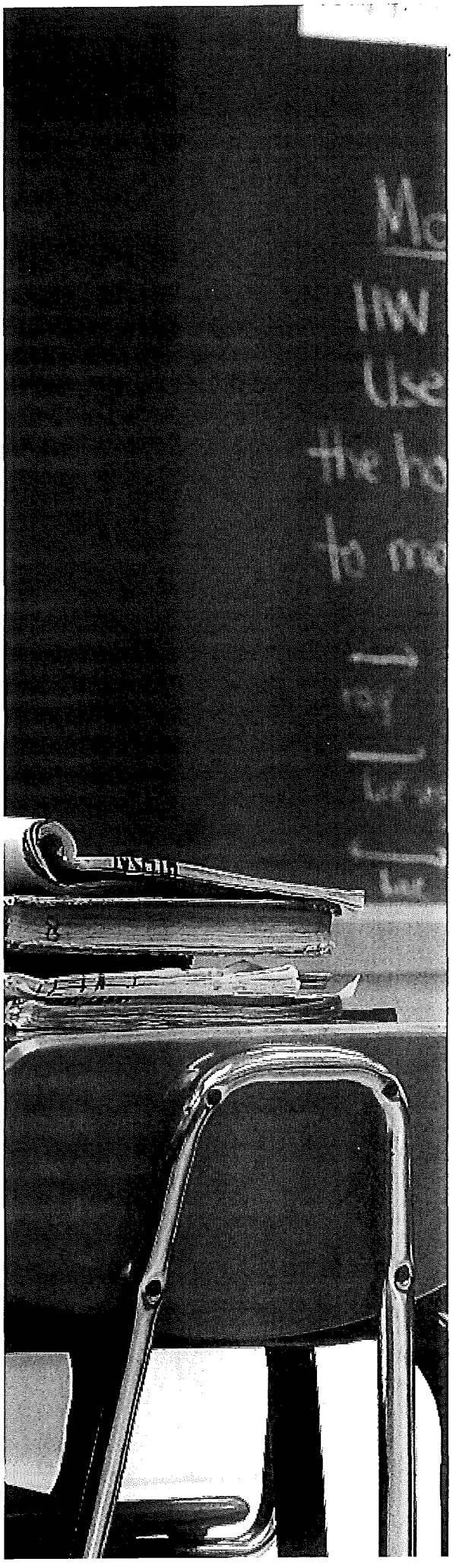
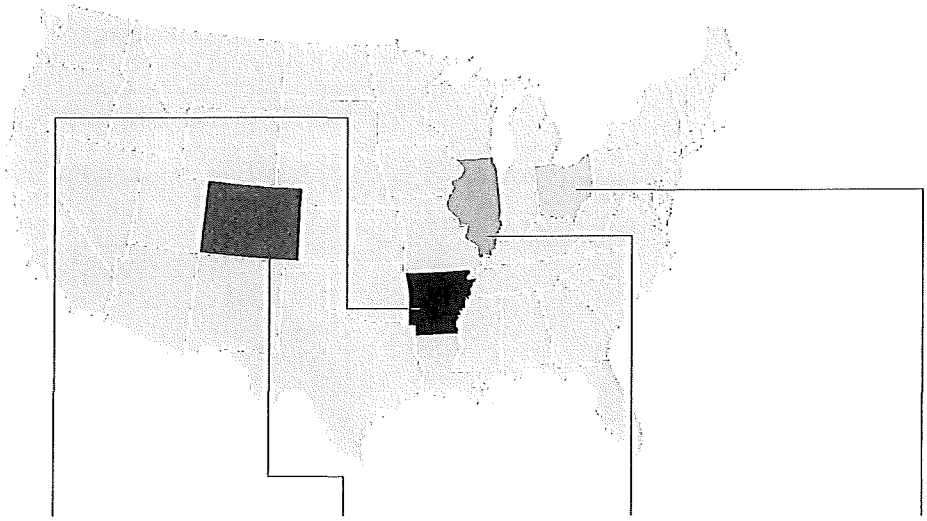


FIGURE 11 | State Teacher Evaluation Requirements in Brief



	AR		CO		IL		OH	
	Probationary	*Tenured*	*Probationary*	*Tenured*	*Probationary*	*Tenured*	*Probationary*	*Tenured*
Evaluation Frequency	no requirement	no requirement	1 per year	1 every 3 years	1 per year	1 every 2 years	2 per year	no minimum
# of Observations Required	3 per year	no minimum	2	1	1 *(2 per year in Chicago only)*	1 *(2 per year in Chicago only)*	2	2
Duration of Observations	no requirement	no requirement	no requirement	no requirement	no requirement	no requirement	30 minutes or more	30 minutes or more

Moreover, only five of the districts studied track evaluation results electronically, a step that would at least provide the opportunity to easily monitor and use evaluation information to inform decision-making at a school and district-wide level. Other districts record evaluations in paper files, typically housed at the central office.

Not surprisingly, school administrators spend very little time on what is a largely meaningless and inconsequential evaluation process. Most teacher evaluations are based on two or fewer classroom observations totaling 76 minutes or less. Across all districts, 64 percent of tenured teachers were observed two or fewer times for their most recent evaluation, for an average total of 75 minutes.[45] Probationary teachers receive little additional attention despite their novice status; 59 percent of probationary teachers were observed two or fewer times for their most recent evaluation, for an average total of 81 minutes, a mere six additional minutes. Clearly, effective evaluation amounts to far more than how much time an administrator spends in a teacher's classroom, but the infrequency and brevity of administrator observations underscores their inattention to performance.

Equally important, evaluators spend no more time to observe or give feedback to the small number of teachers identified as mediocre or poor performers than they spend with highly rated teachers. Teachers receiving lower than the highest rating report the same number of observations as their more highly rated colleagues and the same amount of informal feedback.

FIGURE 12[46] | Number of classroom observations by evaluator, prior to evaluator assigning final evaluation rating(s).

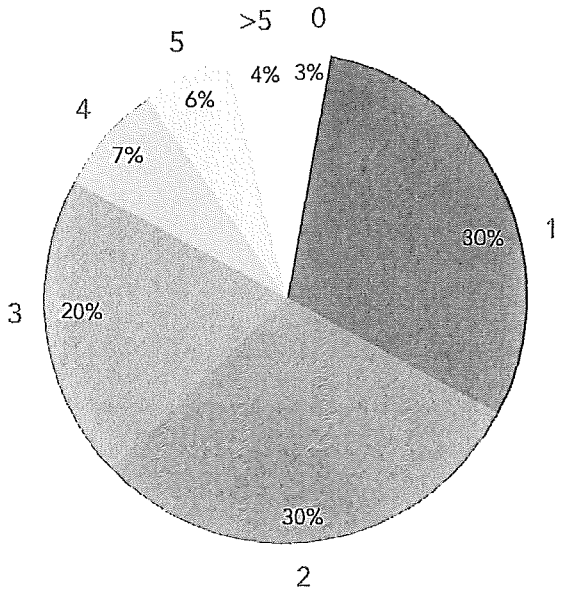
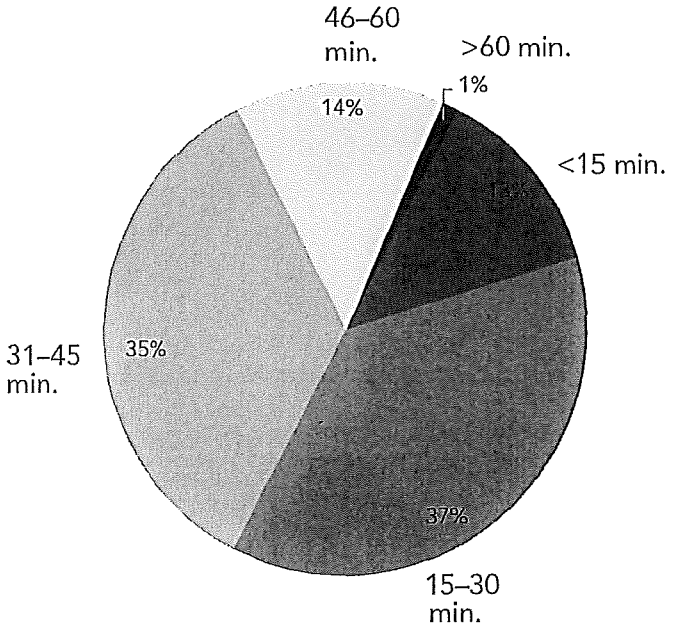


FIGURE 13[47] | Average minutes of a classroom observation, prior to a teacher being assigned a final evaluation rating(s).



65 percent of the lower-rated teachers and 62 percent of highest-rated teachers report 2 or fewer observations during their last evaluation cycle.[48]

58 percent of lower-rated teachers receive informal feedback as compared to 56 percent of highest-rated teachers.[49]

Even when performance is clearly an issue—as represented by the small number of teachers who received the lowest rating on their last evaluation—evaluators fail to invest significant time monitoring instruction. Among the small number of teachers receiving the lowest rating, 74 percent report that they were observed three or fewer times despite significant concerns about their performance.

"I do not feel adequately trained to conduct a teacher evaluation. There are evaluation tools, but no one reviews them with you. We are not trained on the process. As a first year principal, you try it and you move through the process because it has to be done."

–Toledo Public Schools Principal

School Administrators Receive Limited Training

Given the low priority assigned to teacher evaluation, it comes as no surprise that school districts invest minimally in evaluation training for school administrators. In many districts, evaluation training is a one-time endeavor provided either when an administrator is new in his or her position or when the district implements a revised teacher evaluation system. Consequently, school administrators are ill-equipped to evaluate teachers effectively.

Background conversations conducted with district staff suggest that, in many of our study sites, school administrators receive varying levels of training on how to conduct an effective teacher evaluation. For example, in the Cincinnati Public Schools, evaluation training can be provided upon request. In Chicago Public Schools and District U-46 (Elgin), training may occur once a year for a limited number of principals, but not all. In other districts, including El Dorado Public Schools and Akron Public Schools, it simply does not occur.

As a result, across all study sites, 51 percent of school administrators describe their level of training in how to conduct an effective evaluation as "very extensive" or "extensive"[50] and school administrators with more evaluation training are more likely to report that they enforce a high standard for instructional performance.

Yet, it is important to note that extensive training alone did not produce a significant change in evaluation outcomes. School administrators with more extensive training report increased percentages of teachers enrolled in remediation or dismissed for delivering poor instruction than school administrators with less training. Yet even among those who report "very extensive" training, only 36 percent have recommended dismissal of a tenured teacher for poor instruction in the last five years.

Teacher Expectations Are Skewed

It is tempting to believe that simply requiring more frequent and thorough evaluations would result in more rigorous and accurate assessments of teacher performance and increase teachers' confidence in and esteem for the evaluation process. However, we believe these reforms, while necessary, would be insufficient because the minimal nature of the process speaks to a far deeper problem in the culture of schools: the assumption that not only are all teachers the same, but that they are all performing at a high level.

Our research reflects that there is a strong and logical expectation among teachers that they will receive outstanding performance ratings. While the vast majority of teachers receive the highest rating, those teachers who do not receive it tend to believe that the higher rating was warranted.

In the six districts with multiple-rating scales for which survey data were available,[51] 49 percent of probationary teachers and 77 percent of tenured teachers indicated that they believe they should have received the highest rating on their most recent evaluation. In the four districts with binary rating scales for which survey data were available,[52] 99 percent of probationary and 100 percent of tenured teachers think they should have received the highest rating (Satisfactory) on their most recent evaluation.

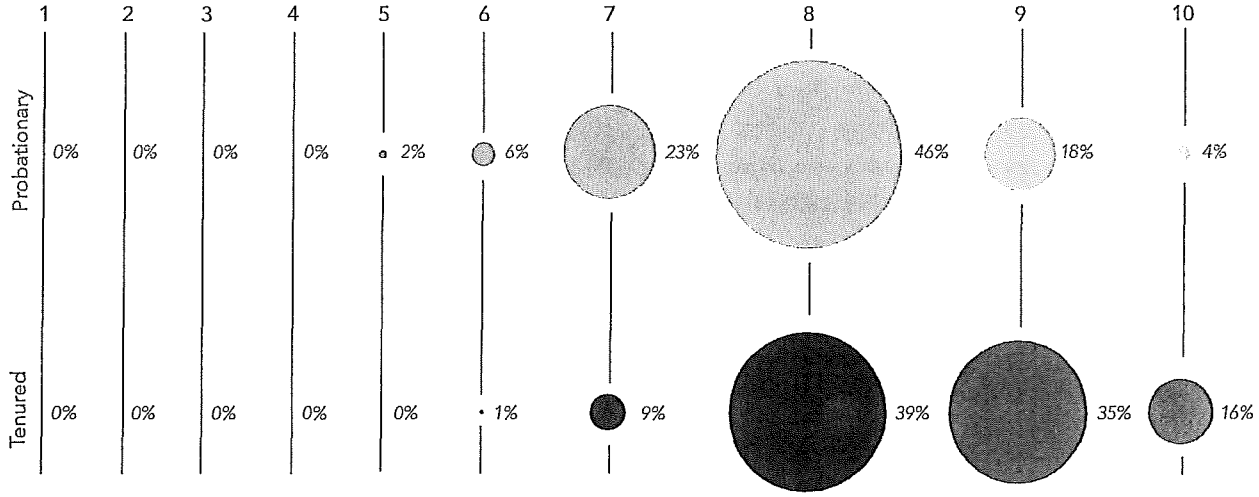
Even teachers who are just beginning their careers believe they deserve the highest performance ratings and are dissatisfied if they are rated good, not great. This inflated sense of performance is evident in the self-assessment ratings of novice teachers. In a subset of districts[53] where teachers were asked to assess their own instructional performance on a scale of 1 to 10, 69 percent of novice teachers rated their instructional performance an 8 or higher.

"Many teachers are accustomed to receiving a 'superior' rating and simply do not accept anything lower. It also seems to be an easier way out for the administrators, rather than have a confrontation with the teacher."

–Chicago Public Schools Teacher

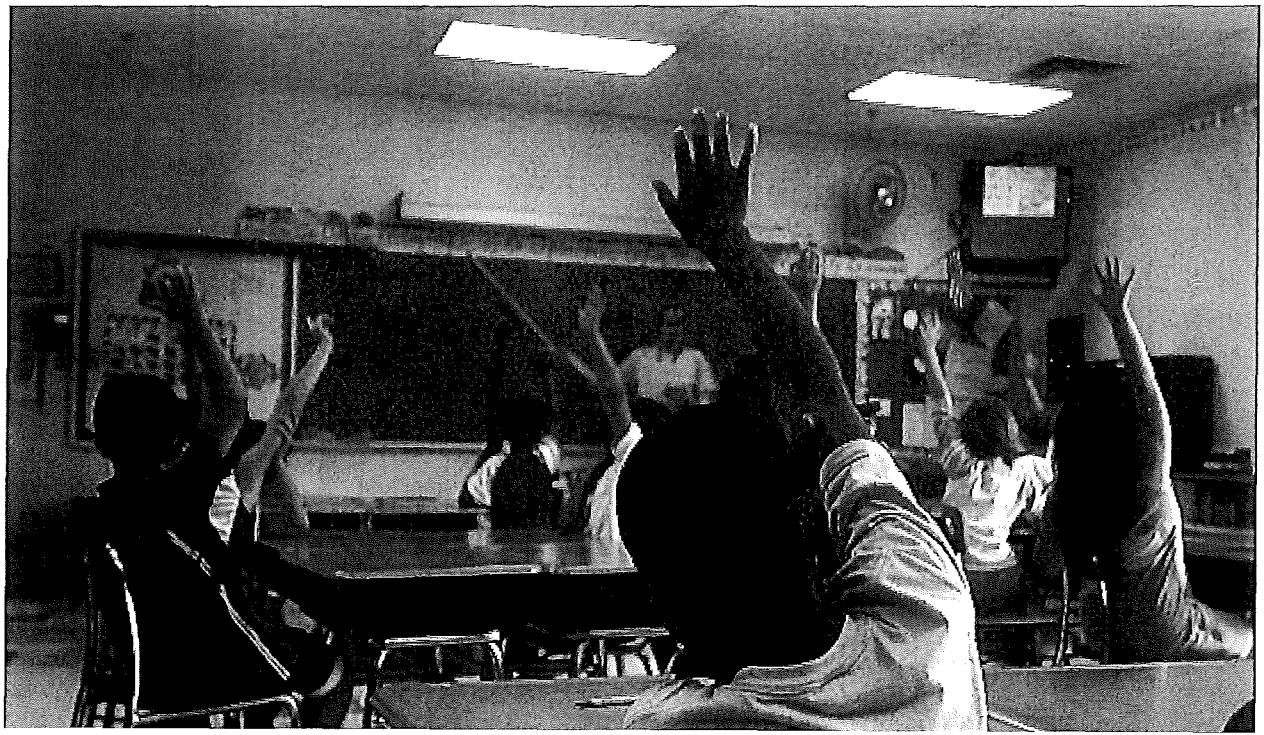
FIGURE 14 | Teachers' Self Assessments of Instructional Performance

ON A SCALE OF 1 TO 10, HOW WOULD YOU RATE YOUR INSTRUCTIONAL PERFORMANCE?



In a system where negative or even less than perfect performance ratings are given only rarely, teachers naturally develop an expectation that they will be among the large majority considered top performers. In this context, teachers perceive low or negative ratings not in terms of what they communicate about performance but as a personally-directed insult or attack. The response is understandable in the context of the current system, where so few teachers get critical feedback of any kind. When their evaluation does include criticism, they feel as though they have been singled out while other examples of poor performance go unaddressed.

This creates a culture in which teachers are strongly resistant to receiving an evaluation rating that suggests their practice needs improvement. Schools then find themselves in a vicious cycle; administrators generally do not accurately evaluate poor performance, leading to an expectation of high performance ratings, which, in turn, cause administrators to face stiff cultural resistance when they do issue even marginally negative evaluations. The result is a dysfunctional school community in which performance problems cannot be openly identified or addressed.



POLICY IMPLICATIONS OF THE WIDGET EFFECT

By failing to produce meaningful information about instructional effectiveness, teacher evaluation systems severely limit the ability of schools and school systems to consider performance when answering critical questions or making strategic decisions about their teacher workforce. On paper, all teachers appear to be equally effective and interchangeable, so schools begin to treat them as such. It is in this way that the Widget Effect takes root.

The Widget Effect endures because there is no mandate for teacher evaluations to do more than identify a few teachers as egregiously incompetent. Performance ratings are not used for critical decisions. Unless a teacher is identified for improvement or dismissal due to a performance assessment suggesting near-total incompetence, evaluations tend to have no consequences, positive or negative.

As a result, the current education policy landscape is chiefly characterized by indifference toward instructional quality. There is no consequence for mediocre or below average teaching, as long as a teacher is not one of the unlucky few to be rated unsatisfactory and face remediation (and even then, it is often overlooked). Ineffective teachers receive salary step increases each year. They may be assigned to work with any group of students, even those who are years behind in academic progress and most in need of accelerated progress. They do not receive differentiated professional development to help them improve.

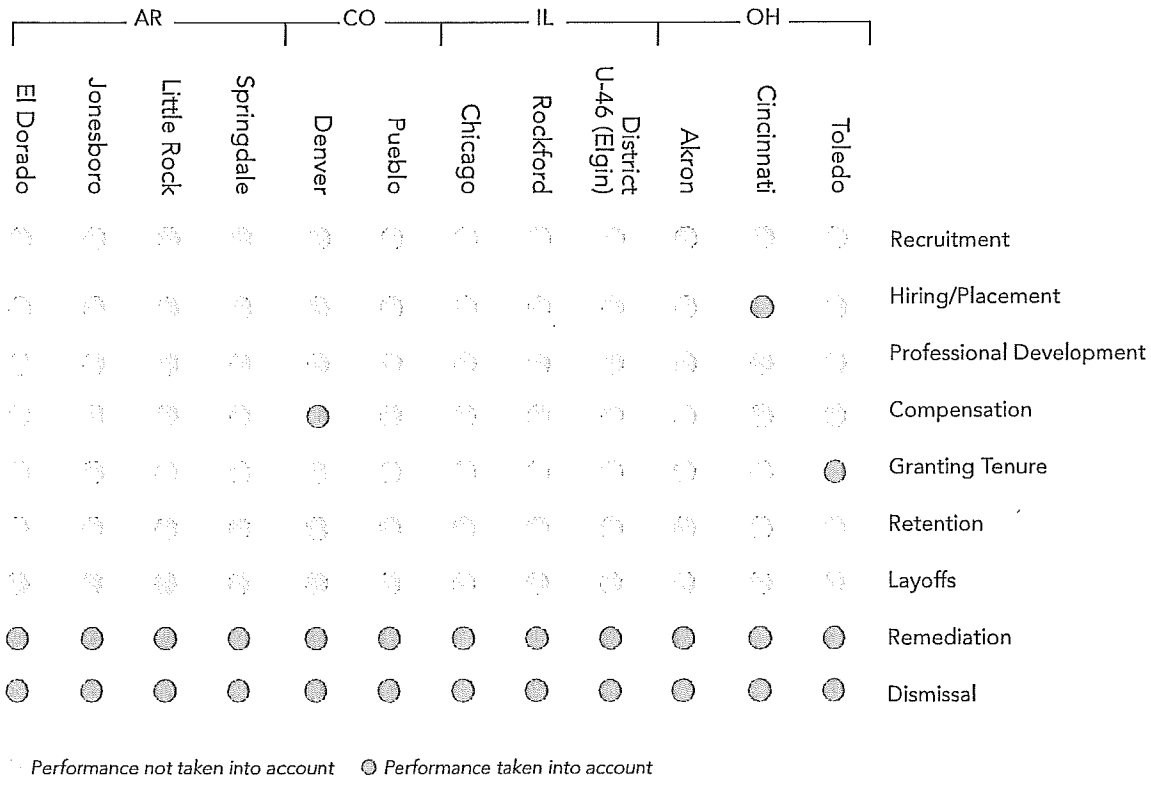
The indifference extends to the top end of the performance scale as well. For example, an exceptional performance rating does not provide protection from layoff for a teacher in any of the 12 districts studied. An outstanding instructor has no additional right to choose curricular materials for her courses, to participate in the selection or induction of newly hired teachers, or to receive a raise. In short, there is little or no benefit associated with being among the best.

In the absence of policy systems based on instructional effectiveness, districts make decisions about teachers in other ways. Most often, districts default to using a teacher's length of service in the system as a proxy for effectiveness and the basis for most high-stakes decisions.

"There are teachers who pour their hearts and souls into teaching. It is heartbreaking to know that all students may have gained in your classroom will not be continued as they move forward. This causes resentment and frustration in our school culture."

–Chicago Public Schools Teacher

FIGURE 15 | The Widget Effect in Action: Where Evaluation Outcomes Are a Factor in Important Human Capital Decisions[54]



In Chicago, where teachers and administrators were asked about whether effectiveness should be a factor in these decisions, the vast majority of administrators (86 percent)[55] reported that they would spend more time and effort on the evaluation process if evaluations held more importance for other decisions.[56] Similarly, teachers also indicated that evaluations should be considered in decisions such as which teachers lose their position during budget cuts, with 78 percent[57] of teachers in Chicago reporting that these choices should be informed by additional factors other than length of service teaching in the district (seniority).

Given the profound impact of the Widget Effect, it is not surprising that only 49 percent of teachers and only 44 percent of administrators agree or strongly agree that their district enforces a high standard of instructional performance for all teachers. It is a change in this number that will ultimately act as a barometer for whether our schools have eliminated the Widget Effect and introduced a new culture that promotes and supports instructional effectiveness.

"We're...making an unprecedented commitment to ensure that anyone entrusted with educating our children is doing the job as well as it can be done.... [T]hat commitment means...treating teachers like the professionals they are while also holding them more accountable. New teachers will be mentored by experienced ones. Good teachers will be rewarded with more money for improved student achievement, and asked to accept more responsibilities for lifting up their schools. Teachers throughout a school will benefit from guidance and support to help them improve."

-President Barack Obama

RECOMMENDATIONS: REVERSING THE WIDGET EFFECT

The Widget Effect is deeply ingrained in the fundamental systems and policies that determine the quality and effectiveness of the teachers in our public schools. While high-functioning evaluation systems alone may be an insufficient antidote, it is clear that reversing the Widget Effect depends on the ability of such systems to produce accurate and credible information on instructional performance that can be connected to other high-stakes decisions.

Overcoming the Widget Effect will require the commitment and investment of all stakeholders in public education today. Taken together, the recommendations below represent a comprehensive approach to improving instructional effectiveness and maximizing student learning. We believe they will enable our nation's schools to recognize, reward and retain their most effective teachers; to provide useful and differentiated support and development to teachers who have not yet achieved their potential; and to ensure that those who do not improve despite receiving support are not permitted to remain in the classroom.

These recommendations are interlinked and co-dependent; adopting one or two while ignoring others will not eliminate the Widget Effect or produce the quantum leaps in student achievement our children deserve.

01 | Adopt a comprehensive performance evaluation and development system that fairly, accurately and credibly differentiates teachers based on their effectiveness in promoting student achievement and provides targeted professional development to help them improve.

Teachers, as professionals, should have their performance assessed based on their ability to succeed at the core mission of our public schools—to deliver instruction that fosters student academic growth. Such a system has to recognize that teachers perform at varying levels—they are not interchangeable parts with uniform attributes, strengths and weaknesses.

In order to be successful, it is critical that a teacher evaluation system be credible; credible to teachers, to administrators, to superintendents, to school boards and to parents. There is no single "correct" model of performance evaluation, but credible systems will share several characteristics:

Clear and straightforward performance standards focused on student achievement outcomes.

Multiple, distinct rating options that allow administrators to precisely describe and compare differences in instructional performance.

Regular monitoring and norming of administrator judgments (e.g., through or with the aid of peer evaluations, independent or third party reviews, and/or teacher surveys).[57]

Frequent and regular feedback to teachers about whether and how their teaching performance meets, exceeds or fails to meet standards.

Professional development that is linked to the performance standards and differentiated based on individual teacher needs.

Intensive support for teachers who fall below performance standards.

VALUE-ADDED DATA AND TEACHER EVALUATION

Some districts and states have developed "value-added" models to assess the impact of individual schools and teachers on student achievement. These models use various predictive factors to determine how well students are expected to achieve on standardized tests and then measure the positive or negative variation from that expected performance level as a means of evaluating the impact of individual teachers. These models, which have shown both to reliably predict the future impact of many teachers and to correlate with administrator evaluations of classroom performance, are promising. However, they cannot serve as a substitute for a comprehensive teacher evaluation system. First, value-added models apply typically only to a minority of teachers, those in annual testing grades and subjects in elementary and middle schools. Second, while value-added models may be useful in identifying the impact of teachers on the margins of the performance spectrum, they are less reliable in differentiating among teachers in the middle ranges of performance. Value-added can be a useful supplement to a performance evaluation system where a credible model is available and may be appropriate for wider use as student assessment systems and value-added models evolve.[59]

UNPRECEDENTED OPPORTUNITIES FOR IMPLEMENTATION AND SUPPORT

These recommendations are ambitious and comprehensive, befitting the demonstrable need for dramatic change in our schools. However, they are also pragmatic and achievable. While there will clearly be significant transition costs associated with the implementation of our recommendations, there are also unprecedented opportunities for schools to obtain external funding for this purpose. Major philanthropies are investing in human capital reform in K-12 education at historic levels,[60] and the American Recovery and Reinvestment Act includes substantial new funding for teacher effectiveness reform.[61] In addition, school districts may be able to reallocate the substantial funding they currently dedicate to undifferentiated professional development to provide better evaluation systems and more relevant professional development to meet the needs of their teachers.[62]

02 | Train administrators and other evaluators in the teacher performance evaluation system and hold them accountable for using it effectively.

In order for a performance evaluation system to fairly and accurately reflect variations in teacher effectiveness, those who are conducting the evaluations—principals, assistant principals, peers or third parties—must be well trained in setting rigorous but achievable performance standards, objectively measuring teacher performance against those standards, providing constructive and actionable feedback to teachers and designing and providing the differentiated support teachers need to meet or exceed the standards.

The training must be intensive and ongoing. Evaluators will need to become expert on the performance evaluation system before it is launched, but just as importantly, will need ongoing guidance as they use the system. District officials must recognize that principals and assistant principals will be chiefly responsible not just for implementing a new evaluation process, but for leading a change in culture.

District officials also have an important role to play in ensuring that teachers are fairly and accurately differentiated based on their effectiveness in the classroom. They must ensure that differentiation through the performance evaluation system remains a priority for administrators by investing in ongoing support and holding them accountable for this process. Administrators who cannot effectively evaluate teacher performance will be unable to reward and retain top performers, improve or remove poor performers, or help all teachers to understand and respond to their own strengths and weaknesses. This fundamental failure translates to an inability to ensure that students receive consistently high-quality instruction, a failing that administrators' own evaluations must reflect.

03 | Use performance evaluations to inform key decisions such as teacher assignment, professional development, compensation, retention and dismissal.

The production of accurate information that can inform important human capital decisions in districts and schools is one of the clear advantages of utilizing a robust teacher performance evaluation system. At present, decisions about how much to pay teachers, where to assign them, what professional development to provide and whom to exit are based on information that generally has little or no relationship to effectiveness in the classroom.

Once districts fairly and accurately assess teacher effectiveness, they can and should put this information to broader use. For example, it might be used to match teachers who provide particularly effective instruction to English Language Learners with students in that category, or to determine which teachers to target for retention through recognition, additional responsibility, compensation or promotion.

Modify teacher compensation systems, most of which are exclusively based on years of service and attainment of educational credits, so that they also reward high-performing teachers and withhold step increases for low-performing teachers.

Factor teacher effectiveness into layoff and excessing (displacement) decisions, rather than basing such decisions solely on seniority.

Target professional development to identified teacher needs so that it helps teachers address areas where they can improve.

Recognize consistently excellent teachers through additional compensation and career ladder opportunities as well as opportunities to employ innovative instructional approaches and share best practices with novices and other colleagues.

Fairly but swiftly remove consistently low-performing teachers who are identified as such through a fair, credible evaluation process and who fail to meet performance standards despite receiving individualized support.

Attaching "stakes" to performance evaluation outcomes for teachers and school administrators is not merely advisable, it is essential. Basing these critical decisions on accurate measures of teacher effectiveness will help to create cultures of excellence in schools, where the focus is on achieving individual, group and school performance goals related to student achievement. In addition, administrators will have to invest substantial time in the performance evaluation system, and will be required to have the difficult conversations about performance with their teachers that so rarely occur in schools today. Without attaching stakes to evaluation outcomes, it would be unrealistic to expect that administrators will continue to do the hard work to ensure that the performance evaluation system remains rigorous and credible.

04 | Adopt dismissal policies that provide lower-stakes options for ineffective teachers to exit the district and a system of due process that is fair but streamlined and efficient.

When virtually all teachers are rated as satisfactory or better, a teacher identified as unsatisfactory may justifiably wonder whether he or she is the subject of a witch hunt. But under a system with clear performance standards, frequent constructive feedback and ample support for teachers failing to meet the standards, unsatisfactory ratings will not be anomalous, surprising or without clear justification. As a result, it is far more likely that teachers identified as unsatisfactory will accept the appraisal of their performance and voluntarily exit the district (as is common in other professions) rather than challenge the decision through formal processes.

Districts and states can facilitate the voluntary departure of unsatisfactory performers by providing low-stakes options such as multi-year unpaid sabbaticals (without job guarantees upon return). Districts can also motivate unsatisfactory teachers to voluntarily exit by denying them salary increases unless and until they meet performance standards, and by allowing pension plan portability so that veteran teachers who need a change can accept positions in other districts without sacrificing pension benefits.

Regardless of whether teachers leave voluntarily or through a streamlined due process system, they should not face license revocation unless they are a danger to children. Just as in other professions, those who fail to meet performance standards of a particular employer should not be barred from the profession, because "fit" matters and an effective match with a new school may lead to improved instructional performance.

Formal dismissal processes should no longer determine whether teachers can continue to practice their chosen profession, but, rather, should be a check on arbitrary decisions by administration. This much more narrow focus, coupled with a transparent evaluation system and process, should permit a dismissal process that does not involve protracted and expensive quasi-judicial hearings in which arbitrators substitute their judgment about teacher competence for that of school or district leaders. There should be no necessity, in fact, for schools and districts to invest hundreds of hours and hundreds of thousands of dollars seeking the dismissal of a single unsatisfactory-rated teacher.[63]

Nor will extensive remediation processes be necessary in cases of unsatisfactory performance. Teachers failing to meet performance standards will receive fair notice of performance problems, guidance on how to improve and time to do so, all within the context of the performance evaluation system. On the heels of such a process, dismissal should not require extensive additional documentation or lengthy testimony about performance problems or remediation. In the context of a credible performance evaluation system, an expedited hearing of one day's duration should be sufficient for an arbitrator to determine if the performance evaluation and development process were followed and that the judgments of schools administrators were made in good faith.

At present, decisions about how much to pay teachers, where to assign them, what professional development to provide and whom to exit are based on information that generally has little or no relationship to effectiveness in the classroom.

[1] Victor H. Bernstein, "Security of the Teacher in his Job," The New York Times, May 24, 1936.

[2] Remarks by President Barack Obama to the U.S. Hispanic Chamber of Commerce on a Complete and Competitive American Education, March 10, 2009.

[3] For information about the impact of teacher effectiveness on student outcomes, see Rivkin, S., E. Hanushek, and J. Kain (2005). "Teachers, Schools, and Academic Achievement," Econometrica, 73(2), 417-458. Also see Sanders, W.L. and Rivers, J.C. (1996). "Research Project Report: Cumulative and Residual Effects of Teachers on Future Student Academic Achievement," University of Tennessee Value-Added Research and Assessment Center; and Rockoff, J. E. (2004). "The Impact of Individual Teachers on Students' Achievement: Evidence from Panel Data." American Economic Review 94(2), 247-52.

[4] Teacher survey data from Akron Public Schools, Chicago Public Schools, Denver Public Schools, District U-46 (Elgin), Little Rock School District, Pueblo City Schools, Rockford Public Schools, Springdale Public Schools and Toledo Public Schools. A "negative" evaluation constitutes the lowest evaluation rating possible, per each district's evaluation system/tool.

[5] Evaluation data from El Dorado Public Schools and Little Rock School District were unavailable for manual collection. In these instances, the districts are represented by survey data alone.

[6] Districts that use a binary rating system to evaluate teachers include Denver Public Schools, Jonesboro Public Schools, Pueblo City Schools, Toledo Public Schools and Springdale Public Schools. Springdale Public Schools uses a binary evaluation system for most non-probationary teachers and a multiple rating system for probationary teachers and some non-probationary teachers.

[7] Throughout this report, the generic term "tenured" is used to refer to teachers who have tenure, non-probationary status or continuing-contract status.

[8] Denver Public Schools uses a multiple rating system for various indicators, and then a final summative rating of "satisfactory" or "unsatisfactory."

[9] In Jonesboro Public Schools, teachers receive either "Meets Expectations" or "Needs Improvement" on each of the eight domains that comprise the district's evaluation tool. In compiling the data, teachers were given one point for each of the eight domains in which they received a rating of "Meets Expectations" box checked for more than half of the sub-domains in a particular domain. Rating totals represent the sum of ratings across all eight domains.

[10] Rating data for teachers evaluated using the Professional Development Model only, an option available only to teachers with non-probationary status. (Teacher contract status data was unavailable for Springdale Public Schools, so data regarding the use of the Professional Development Model to evaluate a teacher was used as a proxy to identify teachers with non-probationary status.)

[11] Satisfactory ratings represent all ratings given during the period specified by district in Figure 01.

[12] Unsatisfactory ratings represent all ratings given during the period specified by district in Figure 01.

[13] Districts that use a multiple rating system to evaluate teachers include Akron Public Schools, Chicago Public Schools, Cincinnati Public Schools, District U-46 (Elgin) and Rockford Public Schools. Throughout this report, evaluation rating data from Cincinnati Public Schools refer only to the domain "Teaching for Student Learning."

[14] Highest ratings were assigned within the last three to five school years, depending upon district. See Figure 2 for the time periods associated with each district.

[15] Based on percent of teachers that receive one of the lowest two ratings in Akron Public Schools, Chicago Public Schools and Cincinnati Public Schools.

[16] As defined by the federal No Child Left Behind Act. Schools with grade configurations that include both elementary and secondary grade levels, such as K-8 schools, receive multiple AYP ratings. If a school received at least one AYP rating of "Not Meeting," we counted the school in the set of those schools not meeting AYP.

[17] Average calculated using the number of schools not meeting AYP in each school year as the unit of analysis.

[18] Denver Public Schools Adequate Yearly Progress data was collected from the Colorado Department of Education website, located at http://www.cde.state.co.us/FedPrograms/ayp/results.asp, in March 2009. Charter schools were omitted from the data included in Figure 3.

[19] Rockford Public Schools Adequate Yearly Progress data was collected from the Illinois State Board of Education website, located at http://webprod.isbe.net/ereportcard/publicsite/getSearchCriteria.aspx in March 2009. Cincinnati Public Schools Adequate Yearly Progress Data was collected from the Ohio Department of Education website, located at http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEPrimary.aspx?page=2&TopicRelationID=130 in December 2008.

[20] Teachers were asked to report when their instructional performance was last evaluated.

[21] Expanded surveys were issued in Akron Public Schools, Chicago Public Schools, Little Rock School District and Springdale Public Schools. Teachers and administrators in these districts were asked how their respective district's evaluation ratings translate to varying levels of effectiveness, including an exemplary teacher, an effective teacher, a somewhat effective teacher or an ineffective teacher.

[22] Expanded surveys were issued in Akron Public Schools, Chicago Public Schools, Little Rock School District, and Springdale Public Schools to survey teachers on additional topics including teacher development and the recognition of excellence. Data taken from these expanded surveys issued in four study sites are noted as such throughout the report.

[23] Expanded surveys were issued in Akron Public Schools, Chicago Public Schools, Little Rock School District and Springdale Public Schools to survey teachers on additional topics including teacher development and the recognition of excellence.

[24] Teachers in all 12 districts were asked if their evaluator identified any areas of unsatisfactory performance or performance in need of improvement on their most recent evaluation.

[25] Expanded surveys were issued in Akron Public Schools, Chicago Public Schools, Little Rock School District and Springdale Public Schools. Teachers were asked if they had participated in an informal conversation with their principal or evaluator in school year 2008-09, to discuss aspects of their instruction that could be improved.

[26] Expanded surveys were issued in Akron Public Schools, Chicago Public Schools, Little Rock School District and Springdale Public Schools. Teachers who had a performance area identified as in need of improvement or unsatisfactory were asked if they were made aware of concerns about the quality of their instruction prior to their most recent evaluation.

[27] Respondents answering "Strongly agree" or "Agree."

[28] Respondents answering "Strongly agree" or "Agree."

[29] Novice is defined by the probationary teaching period, which depends on state policy and in some cases, district practice. Districts in our study range from a three to four year novice period.

[30] Respondents answering "Very confident" or "Confident."

[31] Percent of novice teachers in Akron Public Schools, Cincinnati Public Schools, Chicago Public Schools, District U-46, Little Rock School District, Rockford Public Schools and Springdale Public Schools who indicated they received a greater than satisfactory rating on their most recent performance evaluation. Cincinnati includes evaluation ratings for the "Teaching for Student Learning" domain only.

[32] Teacher non-renewals were counted based on extant data provided by the districts included in Figure 06. Data are as accurate as the records provided to TNTP for this study.

[33] Data from SY05–06 through SY07–08.

[34] Data available only for SY04-05 through SY07-08.

[35] During the time period 2003-04 through 2007-08, Toledo Public Schools had five informal dismissals of probationary teachers (i.e., probationary teachers who were recommended for non-renewal but elected to resign instead). Data on informal dismissals were not available for all districts studied.

[36] Percent of teachers identified as poor performers was collected from teacher surveys in Chicago and Akron. Data regarding the actual percent of teachers receiving an unsatisfactory rating was provided by each district.

[37] Expanded surveys were issued in Akron Public Schools, Chicago Public Schools, Little Rock School District and Springdale Public Schools. Respondents were asked if there are tenured teachers in their school who deliver poor instruction.

[38] Expanded surveys were issued in Akron Public Schools and Chicago Public Schools, which asked teachers if they are aware of poor performers in their school. Evaluation rating data was also available for these districts, allowing for the comparison of reported poor performers and number of unsatisfactory ratings.

[39] Respondents across all districts except Rockford Public Schools who indicated they have not initiated a dismissal proceeding for a poorly performing tenured teacher in the past five years.

[40] During the time period 2003-04 through 2007-08, Toledo Public Schools had five informal dismissals of tenured teachers (i.e., tenured teachers who were recommended for dismissal but elected to resign or retire instead). Data on informal dismissals were not available for all districts studied.

[41] Teacher dismissal for performance data was collected from ten districts representing some combination of school years 2003–04 through 2007–2008 as noted in Figure 08. A formal dismissal is defined as a case of poor instructional performance whereby the district initiated dismissal proceedings against a teacher and those proceedings resulted in a dismissal. Akron Public Schools, Cincinnati Public Schools, Denver Public Schools, Jonesboro Public Schools, Pueblo City Schools, Springdale Public Schools and Toledo Public Schools each supplied a code that identified which teachers were dismissed for poor performance. Chicago Public Schools, District U-49 (Elgin) and Rockford Public Schools supplied remediation data and a code detailing remediation outcome, which equates to dismissal.

[42] Respondents who said that they believe that administrators fail to dismiss tenured teachers who are poor instructional performers.

[43] Survey data from Akron Public Schools, Little Rock School District, and Springdale Public Schools.

[44] Expanded surveys were issued in Akron Public Schools, Chicago Public Schools, Little Rock School District and Springdale Public Schools. Teachers and administrators were asked if there are tenured teachers in their school who deliver poor instruction.

[45] Respondents were asked how many classroom observations their evaluator conducted prior to issuing their most recent evaluation rating, as well as the amount of time the evaluator spent, on average, in their classroom while conducting this (these) observation(s).

[46] Respondents in all districts were asked to identify the number of classroom observations conducted prior to their evaluator assigning their most recent evaluation rating.

[47] Respondents in all districts were asked to identify the average number of minutes their evaluator spent observing them prior to assigning their most recent evaluation rating(s).

[48] Survey respondents were asked to identify their most recent performance evaluation rating. These data were then analyzed against the number of classroom observations conducted for the most recent evaluation. Data from Akron Public Schools, Chicago Public Schools, District U-46 (Elgin), Little Rock School District, Rockford Public Schools and Springdale Public Schools.

[49] Survey respondents in Akron Public Schools, Chicago Public Schools, Little Rock School District and Springdale Public Schools were asked to identify their most recent performance evaluation rating. These data were then analyzed against teacher reports of informal feedback.

[50] Respondents were asked to describe the extent of training they have received on how to conduct an effective evaluation of a teacher's instructional performance.

[51] Akron Public Schools, Chicago Public Schools, District U-46 (Elgin), Little Rock School District, Rockford Public Schools and Springdale Public Schools.

[52] Denver Public Schools, Jonesboro Public Schools, Pueblo City Schools and Toledo Public Schools. These data do not include Springdale Public Schools, which uses a multiple rating evaluation system for probationary teachers and some non-probationary teachers and a binary evaluation rating system for most non-probationary teachers.

[53] Akron Public Schools, Chicago Public Schools, Little Rock School District and Springdale Public Schools.

[54] Definitions used in determining significance:

Recruitment: District uses instructional effectiveness outcomes to determine and target likely sources of high-potential teacher candidates.

Hiring/Placement: District uses instructional effectiveness outcomes to determine which teachers are hired into which schools and/or placed in particular positions, e.g. hard-to-staff schools, lead teacher position, lead mentor, etc.

Professional Development: District uses instructional effectiveness outcomes to determine what types of specific development and support an individual teacher needs in order to continuously improve their teaching performance.

Compensation: District uses instructional effectiveness outcomes to determine compensation decisions, e.g., advance on salary schedule, pay-for-performance programs, merit pay, etc.

Granting Non-Probationary Status/Tenure: District uses instructional effectiveness outcomes to determine which teachers are awarded non-probationary status or tenure.

Retention: District uses instructional effectiveness outcomes to identify outstanding teachers, recognize their efforts and reward them for their performance, through preferred placement, greater autonomy, etc.

Layoffs: District uses instructional effectiveness outcomes to determine which teachers are retained and/or released during layoff situations.

Remediation: District uses instructional effectiveness outcomes to determine which teachers receive remediation support and what type of remediation they need.

Dismissal: District uses instructional effectiveness outcomes to determine which teachers should be dismissed because their influence on student learning is less than satisfactory.

[55] Respondents from the Chicago Public Schools administrator survey only.

[56] Expanded surveys were issued in Chicago Public Schools to survey teachers on additional topics including teacher development and the recognition of excellence.

[57] Respondents from the Chicago Public Schools teacher survey only.

[58] A critical part of ensuring that teachers accept any performance evaluation system as fair and credible is monitoring administrator judgments to ensure they are fair and objective. There are several mechanisms that can be used for this purpose. Peer evaluators can be deployed to provide input on administrator evaluations. District officials can independently review administrator judgments. Outside firms can be retained to provide objective third party assessments of the fidelity of administrators to performance evaluation standards. Teachers can be surveyed confidentially to assess their views of the accuracy of performance evaluations in their schools. These mechanisms will allow district officials to identify administrators who are not being fair or objective and instill confidence among teachers in the fairness of the process.

[59] Various researchers have explored the strengths and weaknesses of using value added data as an indicator of teacher effectiveness. See Goldhaber, D. and M. Hansen (2008). "Assessing the potential of using value-added estimates of teacher job performance for making tenure decisions." National Center for Analysis of Longitudinal Data in Education Research. Retrieved April 27, 2009, from http://www.urban.org/UploadedPDF/1001265_Teacher_Job_Performance.pdf. See Rothstein, J. (2008). "Teacher quality in educational production: tracking, decay, and student achievement." NBER. Retrieved April 27, 2009, from http://www.nber.org/papers/w14442. See McCaffrey, D., Lockwood, J.R., Koretz, D., & Hamilton L.S. (2003). Evaluating value-added models for teacher accountability. Santa Monica, CA: RAND

[60] Erik Robelen. "Gates Revamps its Strategy for Giving in Education." Education Week, November 11, 2008.

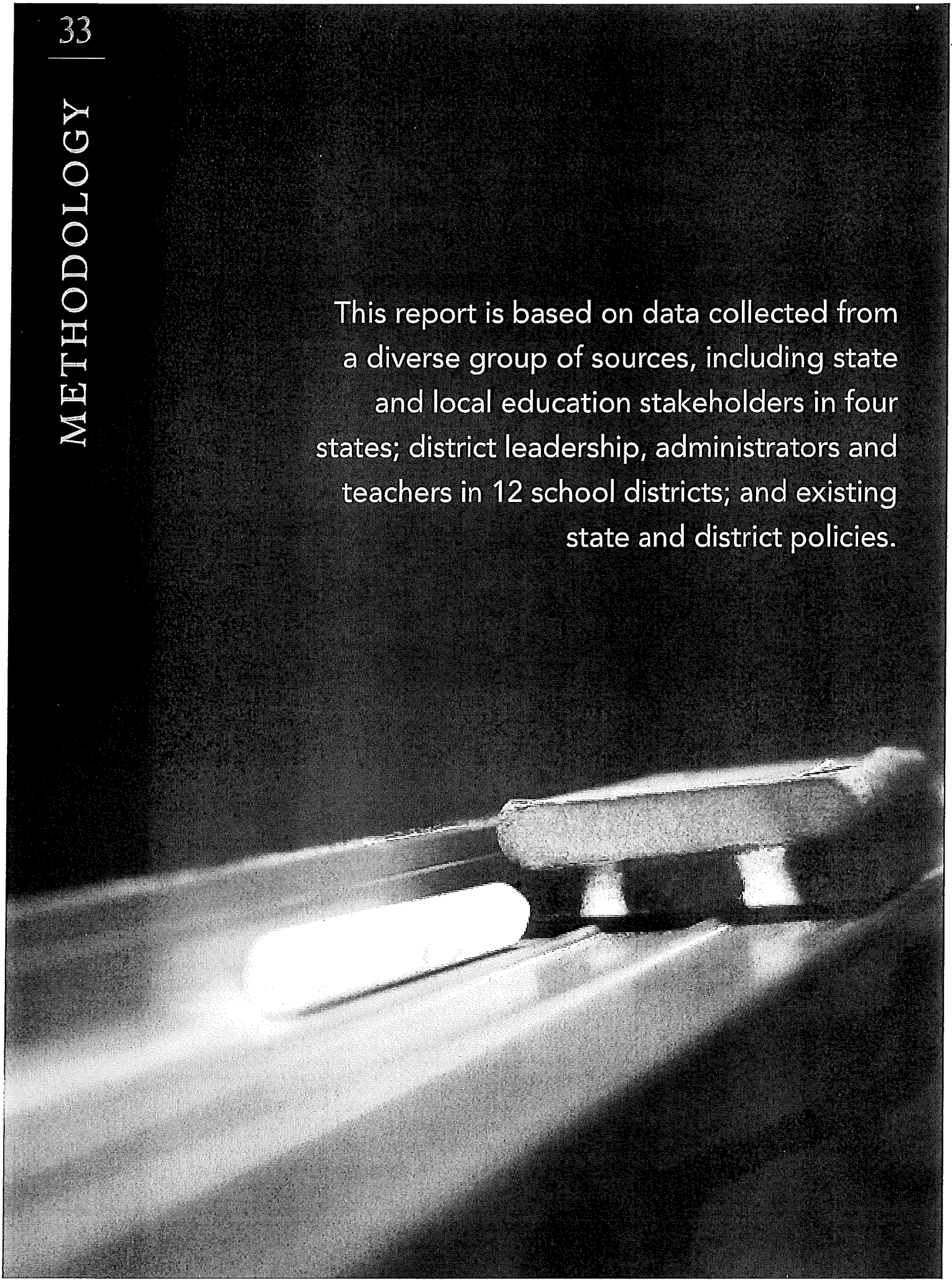
[61] See U.S. Department of Education http://www.ed.gov/news/pressreleases/2009/04/04012009.html.

[62] Shields, R., & Hawley Miles, K. (2008). "Finding Resources and Organizing to Build Teaching Capacity: The Professional Development Strategic Review."

[63] New York State School Boards Association (2007). "Accountability for All."

[64] Non-probationary teachers in Springdale Public Schools can be evaluated using one of two models. Under the Professional Development Model, which is used for most non-probationary teachers, there is no required minimum number of observations and there are two possible ratings. Under the Clinical Model, which non-probationary teachers can opt to use and is also used for non-probationary teachers with performance concerns, there are two required observations for teachers who opt to use the model, three for teachers with performance concerns, and four possible ratings.

This report is based on data collected from a diverse group of sources, including state and local education stakeholders in four states; district leadership, administrators and teachers in 12 school districts; and existing state and district policies.



METHODOLOGY

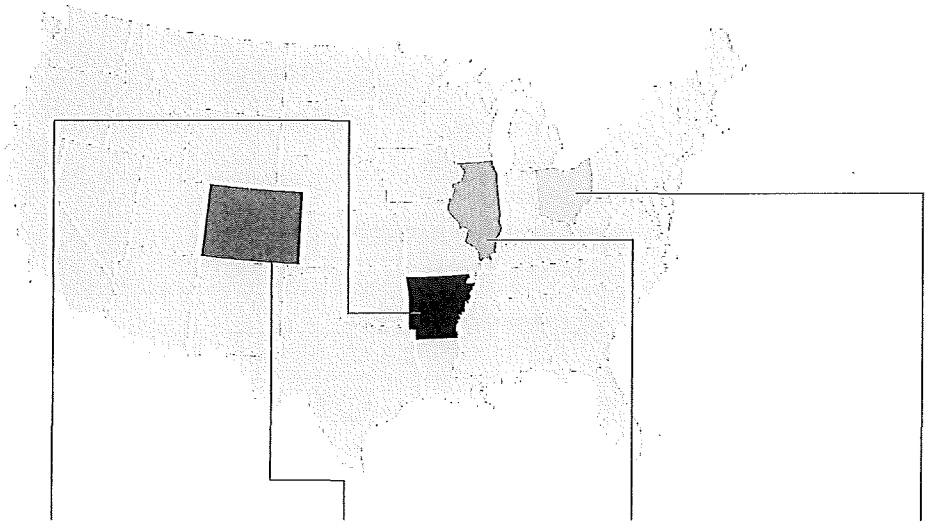
This report is based on data collected from a diverse group of sources, including state and local education stakeholders in four states; district leadership, administrators and teachers in 12 school districts; and existing state and district policies.

The four states and 12 districts represented in this report include:

Arkansas	Colorado	Illinois	Ohio
El Dorado Public Schools	Denver Public Schools	Chicago Public Schools	Akron Public Schools
Jonesboro Public Schools	Pueblo City Schools	District U-46	Cincinnati Public Schools
Little Rock School District		Rockford Public Schools	Toledo Public Schools
Springdale Public Schools			

The four states employ diverse teacher performance management policies and have demonstrated a significant commitment to improving teaching and learning. Arkansas is currently developing more guidance for districts on how to design and manage an effective teacher evaluation system, while Colorado and Ohio already provide some suggested structure for districts, particularly with respect to evaluation frequency and the number of observations required per evaluation. Illinois sets the most stringent requirements for the frequency of evaluation of tenured teachers: once every two years.

FIGURE 16 | State Teacher Evaluation Requirements in Brief



	AR		CO		IL		OH	
	Probationary	*Tenured*	*Probationary*	*Tenured*	*Probationary*	*Tenured*	*Probationary*	*Tenured*
Evaluation Frequency	no requirement	no requirement	1 per year	1 every 3 years	1 per year	1 every 2 years	2 per year	no minimum
# of Observations Required	3 per year	no minimum	2	1	1 *(2 per year in Chicago only)*	1 *(2 per year in Chicago only)*	2	2
Duration of Observations	no requirement	no requirement	no requirement	no requirement	no requirement	no requirement	30 minutes or more	30 minutes or more

All of the districts included in this report are committed to reform and face significant challenges in improving student achievement. The percentage of students who are economically disadvantaged, as defined by the U.S. Department of Education, ranges from 42 percent to 84 percent. The enrollment in the districts we studied ranges from 4,450 to 413,700 students. Some districts are located in or near urban centers, while others are located in rural areas. The districts' evaluation policies and practices differ but, as this study demonstrates, the outcomes of the evaluation process are similar.

FIGURE 17 | District Teacher Evaluation Requirements-Tenured Teachers

District	Formal Evaluation Frequency	Number of Observations	Duration of Observations	Number of Ratings	Peer Review Process
Akron Public Schools	Once every 3 years	No more than 4	More than 15 minutes	5	No
Cincinnati Public Schools	Once every 5 years	1 sufficient in length; 2 at certain levels on the salary scale	Sufficient in length to justify rating	4	Yes
Chicago Public Schools	Once every 2 years, or annually for teachers rated Satisfactory or Unsatisfactory	At least 2		4	No
Denver Public Schools	Once every 3 years	At least one	At least 20 minutes	2	No
District U-46 (Elgin)	Once every 2 years	At least 1, no more than 3	At least 30 minutes	3	No
El Dorado Public Schools	Once per year	No requirement		N/A	No
Jonesboro Public Schools	At least once per year	At least one formal and one informal	Formal is at least 30 minutes	2	No
Little Rock School District	Full evaluation is once every 3 years, with teachers being evaluated on various domains each year	Different domains evaluated every year so that each teacher is comprehensively evaluated every three years			No
Pueblo City Schools	Once every 3 years	One observation a year		2	No
Rockford Public Schools	Once every 2 years	3	One must be at least 30 minutes	3	No
Springdale Public Schools[64]	Once every year	Varies	No minimum	Varies	No
Toledo Public Schools	Every 4 years, four-year contract teachers only; continuing contract teachers are not evaluated unless there are performance concerns	At least one observation	At least 30 minutes	2	Yes



Sources of Quantitative Data

Most districts included in this report provided teacher demographic data, including teacher contract status, separations from the district and teaching assignments. Most districts also provided data from their teacher evaluation systems, from which we created databases of historical evaluation ratings. Using these data, we were able to identify the teacher being evaluated, their contract status within the district, evaluation ratings for the past 3-5 years, and any movement made by the teacher subsequent to a given evaluation (e.g., transferring within or separating from the district).

Electronic evaluation data provided by district	Evaluation data manually collected by district or The New Teacher Project	Evaluation data unavailable for manual collection
Chicago Public Schools	Akron Public Schools	El Dorado Public Schools
Cincinnati Public Schools	Jonesboro Public Schools	Little Rock School District
Denver Public Schools	Pueblo City Schools	
District U-46 (Elgin)	Springdale Public Schools	
Rockford Public Schools	Toledo Public Schools	

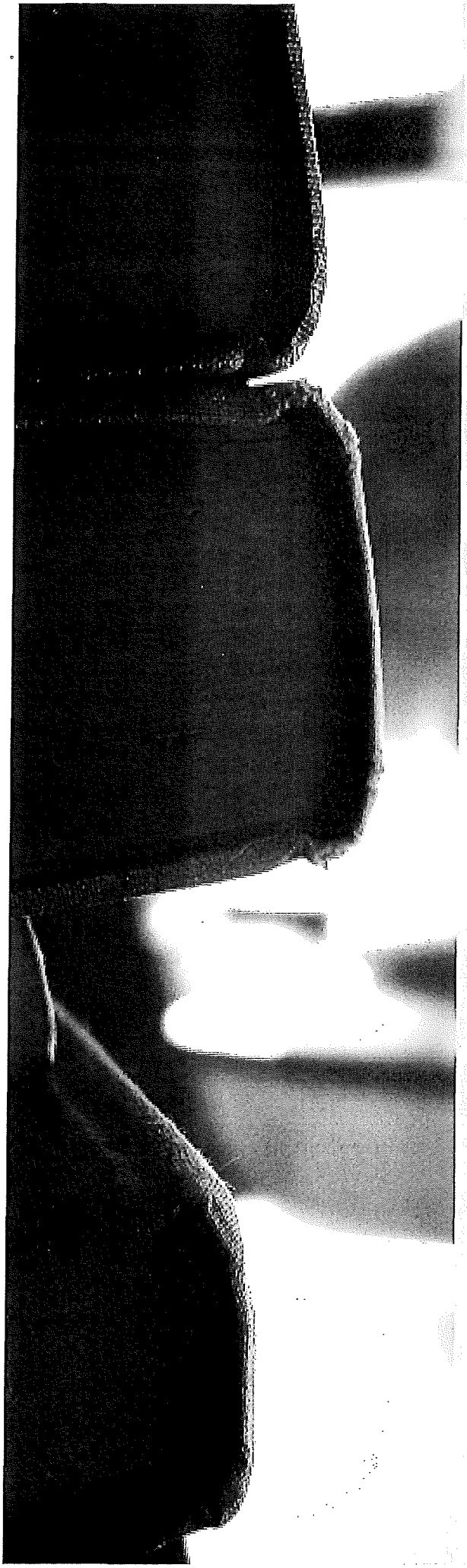
We also conducted surveys of active school administrators and active teachers in every district. In six districts (Akron Public Schools, Cincinnati Public Schools, Denver Public Schools, District U-46, Pueblo City Schools, and Rockford Public Schools) we surveyed former classroom teachers who had left the respective district within the last five years for any reason. In all, we surveyed approximately 1,300 administrators, 15,000 active teachers and 790 former teachers. Each participant group was asked questions regarding their experiences with and perceptions of their district's evaluation system, evaluators and remediation program. All surveys were conducted via an anonymous online survey.

Survey Response Totals by District

	Teachers	Administrators
Akron Public Schools	1,010	36
Chicago Public Schools	4,858	624
Cincinnati Public Schools	1,287	70
Denver Public Schools	1,863	150
District U-46 (Elgin)	1,677	78
El Dorado Public Schools	341	15
Jonesboro Public Schools	405	11
Little Rock School District	687	36
Pueblo City Schools	565	34
Rockford Public Schools	947	92
Springdale Public Schools	763	55
Toledo Public Schools	773	80
Total	15,176	1,281

Sources of Qualitative Data

This report is based on an analysis of each district's current collective bargaining agreement, as well as relevant human resources policies and state legislation. To fully understand how each of these policies is implemented at the district level, we conducted interviews with district leadership, school board members, human resources staff members, legal counsel, labor relations specialists, union leadership, school principals, other evaluators, and teachers. In all we conducted 130 interviews.



Four-State Advisory Panel Process

This report benefits from the involvement of four advisory panels, one in each of our study states of Arkansas, Colorado, Illinois and Ohio.

We established the advisory panels because we believed strongly that it would have been impossible to author a high-quality report without incorporating the many perspectives of the various local education stakeholders. In the end, the advisory panels brought to bear participants' substantial experience and expertise to inform the study methodology, findings and recommendations.

Advisory panel membership varied from state to state but, in general, these panels were comprised of representatives from the state education agencies, state teachers unions or associations, school district superintendents and human resources staff, local teachers union or association leaders, and state-level professional organizations, such as the school administrators associations, personnel administrators associations, and school boards associations. In total, approximately 80 stakeholders participated in the four advisory panels.

Advisory panels met three times from June 2008 to April 2009 to discuss the study and its progress. The first meeting helped us to formulate and refine hypotheses and identify data sources, as well as build knowledge of local contexts. The second meeting allowed us to showcase portions of our data with the advisory panels, demonstrate what we were learning and test our arguments. The third and final meeting provided us with an opportunity to share our draft recommendations and gauge their viability.

In the end, advisory panel members were given the opportunity to provide a written response to the process and recommendations—a feature that we believe adds needed context to a challenging issue. Those responses can be found on our website at www.widgeteffect.org. Participation in an advisory panel does not suggest agreement with our findings and recommendations; the views of advisory panel members are presented first-hand in their written responses.

View the Advisory Panel members' responses to this report at www.widgeteffect.org

We are grateful to all of our advisory panel members for their unique contributions and insights.

ARKANSAS

Shirley Billingly
Assistant Superintendent, El Dorado Public Schools

Ginny Blankenship
Research and Fiscal Policy Director, Arkansas Advocates for Children and Families

Sue Castleberry
Assistant Superintendent, Jonesboro Public School District

Barbara Culpepper
Unit Coordinator—Office of Teacher Quality, Arkansas Department of Education

Luke Gordy
Executive Director, Arkansans for Education Reform Foundation

Kristen Craig Gould
Staff Attorney, Arkansas School Boards Association

David Hartz
Associate Superintendent Human Resources / Governmental Liaison, Little Rock School District

Kenneth James
Commissioner of Education, Arkansas Department of Education

Hartzell Jones
Deputy Superintendent for Personnel, Springdale Public Schools

Cathy Koehler
President, Little Rock Classroom Teachers Association

Renee Kovach
Director of Certified Personnel, Little Rock School District

David Leonard
President, Jonesboro Faculty and Staff Association

Daniel N. Marzoni
President, Arkansas Education Association

Michael Mertens
Assistant Executive Director, Arkansas Association of Educational Administrators

Rich Nagel
Executive Director, Arkansas Education Association

Dale Query
Superintendent, Arkansas Rural Education Association

Jim Rollins
Superintendent, Springdale Public Schools

Don Sharp
Superintendent of Schools, Cotter Public Schools/ Vice President, Arkansas Rural Education Association

Scott Smith
Executive Director, Arkansas Public School Resource Center

Beverly Williams
Assistant Commissioner, Arkansas Department of Education

"We need to develop a succinct performance appraisal system that recognizes good work, helps marginal employees get better and identifies employees who should be dismissed due to their inability to improve. Student performance must be the driving force to improve our current systems."

-Springdale Public Schools (AR)

COLORADO

Linda Barker
Director of Teaching & Learning, Colorado Education Association

Pamela Constuble
Teacher–Pueblo City Schools, Pueblo Education Association

Randy DeHoff
Board Member, Colorado State Board of Education

Mark Fermanich
Research Director, Colorado Children's Campaign

Jami Goetz
Director of Office of Professional Services and Educator Licensing, Colorade Department of Education

Patricia Gonzalez
Assistant Superintendent of Human Resources, Pueblo City Schools

Chris Gramstorff
Human Resources Director, Aurora Public Schools

Beverly Ingle
President, Colorado Education Association

Brenna Isaacs
President, Aurora Education Association

Brad Jupp
Academic Policy Advisor, Denver Public Schools

Tony Lewis
Executive Director, Donnell-Kay Foundation

Richard Lloyd
President, Denver Federation of Teachers

Carole Partin
President, Pueblo Education Association

Van Schoales
Program Officer, Urban Education, Piton Foundation

Shayne Spalten
Chief Human Resources Officer, Denver Public Schools

Kim Ursetta
President, Denver Classroom Teachers Association

Terry Whitney
Senate Majority Legislative Director, Colorado Legislature

"I believe that all stakeholders should come together to create a more credible, meaningful, and productive system for teacher, administrator, and school effectiveness evaluations. Teachers are professionals who value their chosen career and would like to work with colleagues who are excited and knowledgeable about their fields and teaching in general. Teachers and administrators working together in a system which promotes teachers as professionals and supports their professional development to meet the needs of their students, increase instructional quality, and develop effective curriculum is a benefit to all."

-Pueblo Education Association (CO)

ILLINOIS

David Alexander
IEA UniServ Director, Illinois Education Association

Jo Anderson
Executive Director, Illinois Education Association

Karen Bieschke
Vice President, Rockford Education Association

Bob Corder
Director, Human Resources, Rockford Public Schools

Beth Dalton
President, Illinois Association of School Personnel Administrators

Tim Davis
President, Elgin Teachers Association

Mark Doan
Superintendent, Farmington Central Community Schools/
Representative, Illinois Association of School Administators

Lisa Jensen
Human Resources Director, School District U-46

Ascencion Juarez
Chief Human Resources Officer, Chicago Public Schools

John Luczak
Senior Program Officer, Joyce Foundation

Cordelia (Dea) Meyer
Executive Vice President, Civic Committee of
The Commercial Club of Chicago

Molly Phalen
President, Rockford Education Association

Elliot Regenstein
Partner, EducationCounsel LLC

Rachel Resnick
Chief Labor Relations Officer, Chicago Public Schools

Charles P. Rose
Partner, Franczek Sullivan P.C.

Angela Rudolph
Program Officer, Joyce Foundation

Brian Schwartz
Associate Director & General Counsel,
Illinois Principals Association

Nancy Slavin
Director, Recruitment and Workforce Development,
Chicago Public Schools

Audrey Soglin
Director, Center for Educational Innovation,
Illinois Education Association–NEA

Robin Steans
Executive Director, Advance Illinois

Linda Tomlinson
Assistant Superintendent, Illinois State Board of Education

Lisa Vahey
Director, Chicago New Teacher Center

Cynthia S. Woods
Director for Advocacy, Illinois Association of School Boards

"The impact of reviewing how teachers and administrators are evaluated, as well as the impact of evaluations and decisions made about pay and retention need to be discussed openly so that questions can be raised and concerns addressed. Illinois is a very diverse state and decisions about hiring, teacher evaluations, and retention are decided at the local level. Therefore, it is paramount that unions, professional associations, teachers, administrators, and representatives from business and the community be involved as we collaborate and work toward ensuring that all students have effective teachers."

-Illinois State Board of Education (IL)

OHIO

Tony Bagshaw
Senior Director of Knowledge Management, Battelle for Kids

Kenneth (Ken) Baker
Associate Executive Director, The Ohio Association of Secondary School Administrators

Ann Bischoff
Senior Policy Analyst, KidsOhio.org

Patricia Frost-Brooks
President, Ohio Education Association

Lesley-Ann Gracey
Professional Issues Representative, Cincinnati Federation of Teachers

Kirk Hamilton
Deputy Executive Director, Buckeye Association of School Administrators

Julia Indalecio
Teacher Programs Manager, Cincinnati Public Schools

Rhonda Johnson
President, Columbus Education Association

Jerry Klenke
Executive Director, Buckeye Association of School Administrators

Tim Kraus
President, Cincinnati Federation of Teachers

Francine Lawrence
President, Toledo Federation of Teachers

Kathy McVey
Human Resources, Akron Public Schools

Bill Siegferth
President, Akron Education Association

Sue Taylor
President, Ohio Federation of Teachers

Debra Tully
Director of Professional Issues, Ohio Federation of Teachers

William Wendling
Executive Director, The Ohio 8

Michelle Winship
Education Reform Consultant, Ohio Education Association

Cynthia L. Yoder
Executive Director, Center for the Teaching Profession, Ohio Department of Education

"I agree that all stakeholders need to come together to create a more effective teacher evaluation system. Cincinnati did try to do just that when we created our Teacher Evaluation System. Our system is a living, breathing structure that has changed for the better over time. We are constantly looking for ways to improve and build upon our evaluation system. The difficulty for us is that we do not have many other national examples to follow that have as detailed or as comprehensive of an approach to teacher evaluation. Comprehensive evaluation systems like ours are very expensive to run and we can only evaluate 1/5 of the teachers each year. If this is where our country is going we will need to find many, many more dollars to do this, particularly if every teacher is comprehensively evaluated every year. Again, I caution us all to consider changing the larger context of school structure first."

-Cincinnati Federation of Teachers (OH)

About The New Teacher Project | The New Teacher Project (TNTP) is a national nonprofit dedicated to closing the achievement gap by ensuring that poor and minority students get outstanding teachers. Founded by teachers in 1997, TNTP partners with school districts and states to implement scalable responses to their most acute teacher quality challenges. TNTP recruits and trains thousands of exceptional new teachers annually, supports school principals in staffing their classrooms, provides teacher certification in high-need subjects, and documents the policy barriers that keep students from getting the teachers they need. Since its inception, TNTP has trained or hired approximately 33,000 teachers, benefiting an estimated 4.8 million students nationwide. This report is part of an ongoing series of studies on the policies and practices that determine the composition and quality of the nation's teacher workforce.

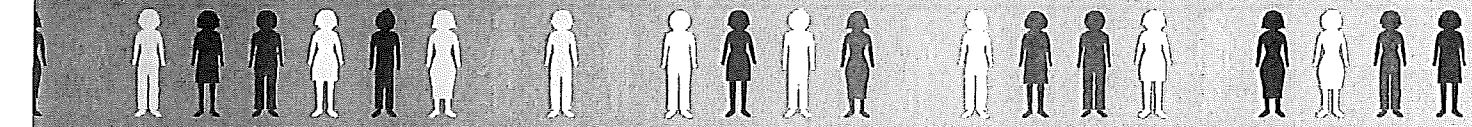
For more information, please visit www.tntp.org.

The report, graphics and figures were designed by Cricket Design Works in Madison, Wisconsin.

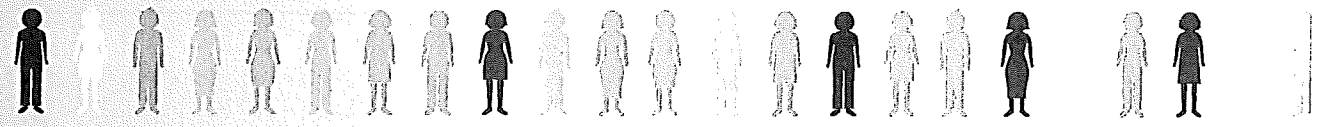
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MET project

POLICY AND PRACTICE BRIEF

Ensuring Fair and Reliable Measures of Effective Teaching

Culminating Findings from the MET Project's Three-Year Study

BILL & MELINDA GATES *foundation*



Exhibit 20

ABOUT THIS REPORT: This non-technical research brief for policymakers and practitioners summarizes recent analyses from the Measures of Effective Teaching (MET) project on identifying effective teaching while accounting for differences among teachers' students, on combining measures into composites, and on assuring reliable classroom observations.[1]

Readers who wish to explore the technical aspects of these analyses may go to www.metproject.org to find the three companion research reports: *Have We Identified Effective Teachers?* by Thomas J. Kane, Daniel F. McCaffrey, Trey Miller, and Douglas O. Staiger; *A Composite Estimator of Effective Teaching* by Kata Mihaly, Daniel F. McCaffrey, Douglas O. Staiger, and J.R. Lockwood; and *The Reliability of Classroom Observations by School Personnel* by Andrew D. Ho and Thomas J. Kane.

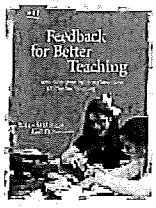
Earlier MET project briefs and research reports also on the website include:

Working with Teachers to Develop Fair and Reliable Measures of Teaching (2010). A white paper describing the rationale for and components of the MET project's study of multiple measures of effective teaching.

Learning about Teaching: Initial Findings from the Measures of Effective Teaching Project (2010). A research report and non-technical policy brief with the same title on analysis of student-perception surveys and student achievement gain measures.

Gathering Feedback for Teaching: Combining High-Quality Observations with Student Surveys and Achievement Gains (2012). A research report and policy/practitioner brief with the same title with initial findings on the reliability of classroom observations and implications for combining measures of teaching.

Asking Students about Teaching: Student Perception Surveys and Their Implementation (2012). A non-technical brief for policymakers and practitioners on the qualities of well-designed student surveys and implications for their implementation for teacher feedback and evaluation.



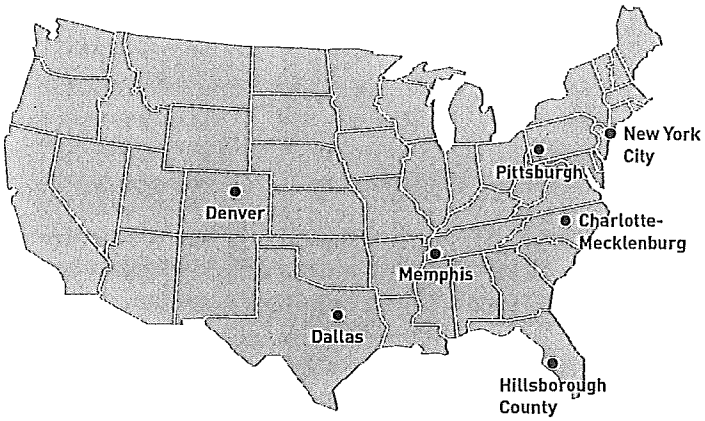
In addition, on www.metproject.org readers will find a set of principles to guide the design of teacher evaluation and support systems based on the work of the MET project, its partners, and other leading systems and organizations, *Feedback for Better Teaching: Nine Principles for Using Measures of Effective Teaching* (2013).

ABOUT THE MET PROJECT: The MET project is a research partnership of academics, teachers, and education organizations committed to investigating better ways to identify and develop effective teaching. Funding is provided by the Bill & Melinda Gates Foundation.

The approximately 3,000 MET project teachers who volunteered to open up their classrooms for this work are from the following districts: The Charlotte-Mecklenburg Schools, the Dallas Independent Schools, the Denver Public Schools, the Hillsborough County Public Schools, the Memphis Public Schools, the New York City Schools, and the Pittsburgh Public Schools.

Partners include representatives of the following institutions and organizations: American Institutes for Research, Cambridge Education, University of Chicago, The Danielson Group, Dartmouth College, Educational Testing Service, Empirical Education, Harvard University, National Board for Professional Teaching Standards, National Math and Science Initiative, New Teacher Center, University of Michigan, RAND, Rutgers University, University of Southern California, Stanford University, Teachscape, University of Texas, University of Virginia, University of Washington, and Westat.

MET Project Teachers



January 2013

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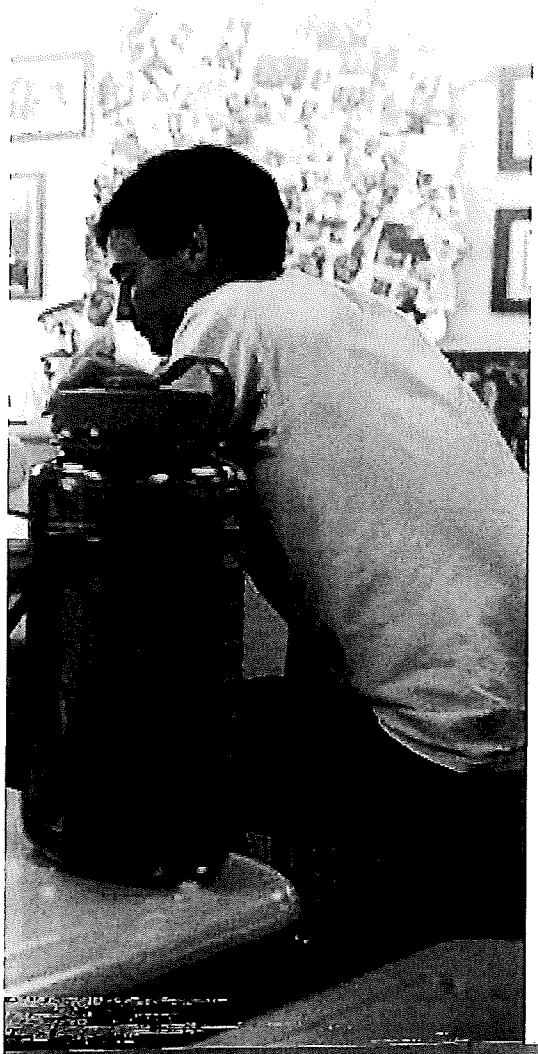
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Executive Summary

States and districts have launched unprecedented efforts in recent years to build new feedback and evaluation systems that support teacher growth and development. The goal is to improve practice so that teachers can better help their students graduate from high school ready to succeed in college and beyond.



These systems depend on trustworthy information about teaching effectiveness—information that recognizes the complexity of teaching and is trusted by both teachers and administrators. To that end, the Measures of Effective Teaching (MET) project set out three years ago to investigate how a set of measures could identify effective teaching fairly and reliably. With the help of 3,000 teacher volunteers who opened up their classrooms to us—along with scores of academic and organizational partners—we have studied, among other measures:

- **Classroom observation instruments,** including both subject-specific and cross-subject tools, that define discrete teaching competencies and describe different levels of performance for each;
- **Student perception surveys** that assess key characteristics of the classroom environment, including supportiveness, challenge, and order; and
- **Student achievement gains** on state tests and on more cognitively challenging assessments.

We have reported findings as we learned them in order to provide states and districts with evidence-based guidance to inform their ongoing work. In our initial report in 2010 (*Learning about Teaching*), we found that a well-designed student perception survey can provide reliable feedback on aspects of teaching practice that are predictive of student learning. In 2012 (*Gathering Feedback for Teaching*), we presented similar results for classroom observations. We also found that an accurate observation rating requires two or more lessons, each scored by a different certified observer. With each analysis we have better understood the particular contribution that each measure makes to a complete picture of effective teaching and how those measures should be implemented to provide teachers with accurate and meaningful feedback.

This final brief from the MET project's three-year study highlights new analyses that extend and deepen the insights from our previous work. These studies address three fundamental questions that face practitioners and policymakers engaged in creating teacher support and evaluation systems.

"Feedback and evaluation systems depend on trustworthy information about teaching effectiveness to support improvement in teachers' practice and better outcomes for students."

The Questions

Can measures of effective teaching identify teachers who better help students learn?

Despite decades of research suggesting that teachers are the most important in-school factor affecting student learning, an underlying question remains unanswered: Are seemingly more effective teachers truly better than other teachers at improving student learning, or do they simply have better students?

Ultimately, the only way to resolve that question was by randomly assigning students to teachers to see if teachers previously identified as more effective actually caused those students to learn more. That is what we did for a subset of MET project teachers. Based on data we collected during the 2009–10 school year, we produced estimates of teaching effectiveness for each teacher. We adjusted our estimates to account for student differences in prior test scores, demographics, and other traits. We then randomly assigned a classroom of students to each participating teacher for 2010–11.

Following the 2010–11 school year we asked two questions: First, did students actually learn more when randomly assigned to the teachers who seemed more effective when we evaluated them the prior year? And, second, did the magnitude of the difference in student outcomes following random assignment correspond with expectations?

How much weight should be placed on each measure of effective teaching?

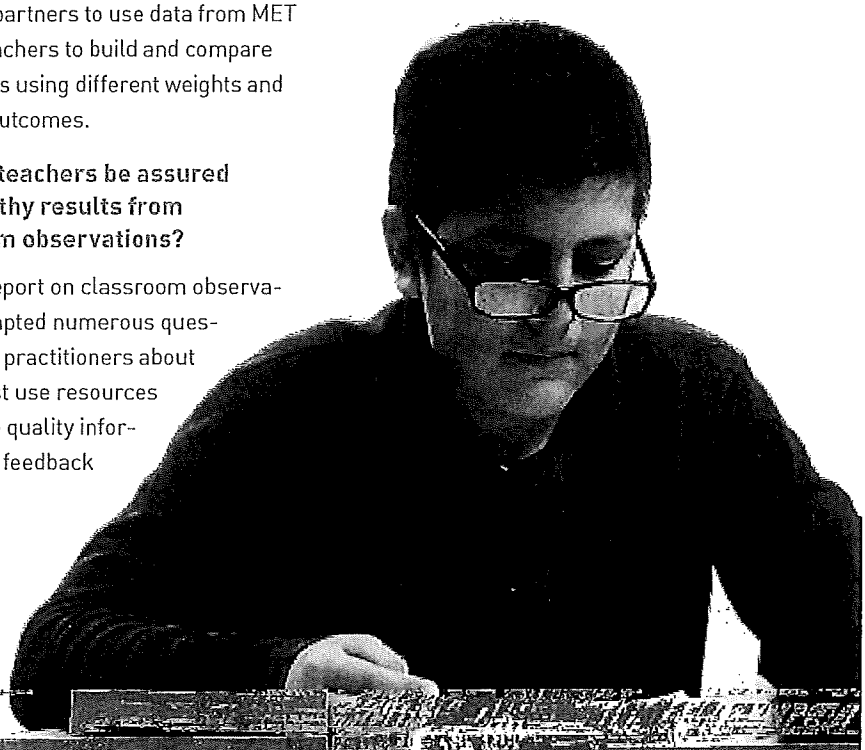
While using multiple measures to provide feedback to teachers, many states and districts also are combining measures into a single index to support decisionmaking. To date, there has been little empirical evidence to inform how systems might weight each measure within a composite to support improvements in teacher effectiveness. To help fill that void, we tasked a group of our research partners to use data from MET project teachers to build and compare composites using different weights and different outcomes.

How can teachers be assured trustworthy results from classroom observations?

Our last report on classroom observations prompted numerous questions from practitioners about how to best use resources to produce quality information for feedback on classroom practice. For example: How many observers are needed to achieve sufficient reliability from a given number of observations? Do all observations need to be the same length to have confidence in the results? And what is the value of adding observers from outside a teacher's own school? To help answer these questions, we designed a study in which administrators and peer observers produced more than 3,000 scores for lessons taught by teachers within one MET project partner school district.

Key findings from those analyses:

1. **Effective teaching can be measured.** We collected measures of teaching during 2009–10. We adjusted those measures for the backgrounds and prior achievement of the students in each class. But, without random assignment, we had no way to know if the adjustments we made were sufficient to discern the markers of effective teaching from the unmeasured aspects of students' backgrounds.



In fact, we learned that the adjusted measures did identify teachers who produced higher (and lower) average student achievement gains following random assignment in 2010–11. The data show that we can identify groups of teachers who are more effective in helping students learn. Moreover, the magnitude of the achievement gains that teachers generated was consistent with expectations.

In addition, we found that more effective teachers not only caused students to perform better on state tests, but they also caused students to score higher on other, more cognitively challenging assessments in math and English.

2. **Balanced weights indicate multiple aspects of effective teaching.** A composite with weights between 33 percent and 50 percent assigned to state test scores demonstrated the best mix of low volatility from year to year and ability to predict student gains on multiple assessments. The composite that best indicated improvement on state tests heavily weighted teachers' prior student achievement gains based on those same tests. But composites that assigned 33 percent to 50 percent of the weight to state tests did nearly as well and were somewhat better at predicting student learning on more cognitively challenging assessments.

   Multiple measures also produce more consistent ratings than student achievement measures alone. Estimates of teachers' effectiveness are more stable from year to year when they combine classroom observations, student surveys, and measures of student achievement gains than when they are based solely on the latter.

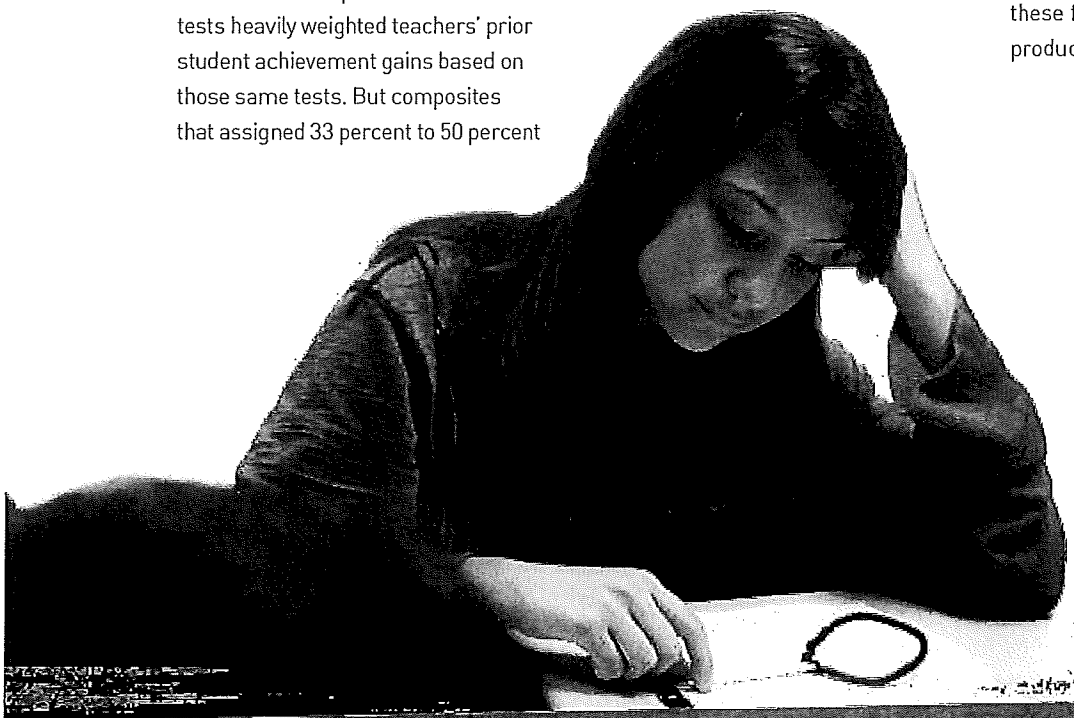
3. **Adding a second observer increases reliability significantly more than having the same observer score an additional lesson.** Teachers' observation scores vary more from observer to observer than from lesson to lesson. Given the same total number of observations, including the perspectives of two or more observers per teacher greatly enhances reliability. Our study of video-based observation scoring also revealed that:

   a. Additional shorter observations can increase reliability. Our analysis suggests that having additional observers watch just part of a lesson may be a cost-effective way to boost reliability by including additional perspectives.

   b. Although school administrators rate their own teachers somewhat higher than do outside observers, how they rank their teachers' practice is very similar and teachers' own administrators actually discern bigger differences in teaching practice, which increases reliability.

   c. Adding observations by observers from outside a teacher's school to those carried out by a teacher's own administrator can provide an ongoing check against in-school bias. This could be done for a sample of teachers rather than all, as we said in *Gathering Feedback for Teaching*.

The following pages further explain these findings and the analyses that produced them.



Can Measures of Effective Teaching Identify Teachers Who Better Help Students Learn?[2]

By definition, teaching is effective when it enables student learning. But identifying effective teaching is complicated by the fact that teachers often have very different students. Students start the year with different achievement levels and different needs. Moreover, some teachers tend to get particular types of students year after year (that is, they tend to get higher-performing or lower-performing ones). This is why so-called value-added measures attempt to account for differences in the measurable characteristics of a teacher's students, such as prior test scores and poverty.

"Teachers previously identified as more effective caused students to learn more. Groups of teachers who had been identified as less effective caused students to learn less."

However, students differ in other ways—such as behavior and parental involvement—which we typically cannot account for in determining teaching effectiveness. If those "unaccounted for" differences also affect student learning, then what seems like effective teaching may actually reflect unmeasured characteristics of a teacher's students. The only way to know if measures of teaching truly identify effective teaching and not some unmeasured student characteristics is by randomly assigning teachers to students. So we did.

In 2009–10, we measured teachers' effectiveness using a combined measure, comprising teachers' classroom observation results, student perception survey responses, and student achievement gains adjusted for student characteristics, such as prior performance and demographics. The following year (2010–11), we randomly assigned different rosters of students to two or more MET project teachers who taught the same grade and subject in the same school. Principals created rosters and the RAND Corp assigned them randomly to teachers (see **Figure 1**). Our aim was to determine if the students who were randomly assigned to teachers who previously had been identified as more effective actually performed better at the end of the 2010–11 school year.[3]

They did. On average, the 2009–10 composite measure of effective teaching accurately predicted 2010–11 student performance. The research confirmed that, as a group, teachers previously identified as more effective caused students to learn more. Groups of teachers who had been identified as less effective

caused students to learn less. We can say they "caused" more (or less) student learning because when we randomly assigned teachers to students during the second year, we could be confident that any subsequent differences in achievement were being driven by the teachers, not by the unmeasured characteristics of their students. In addition, the magnitude of the gains they caused was consistent with our expectations.

Figure 2 illustrates just how well the measures of effective teaching predicted student achievement following random assignment. The diagonal line represents perfect prediction. Dots above the diagonal line indicate groups of teachers whose student outcomes following random assignment were better than predicted. Dots below the line indicate groups of teachers whose student outcomes following random assignment were worse than predicted. Each dot

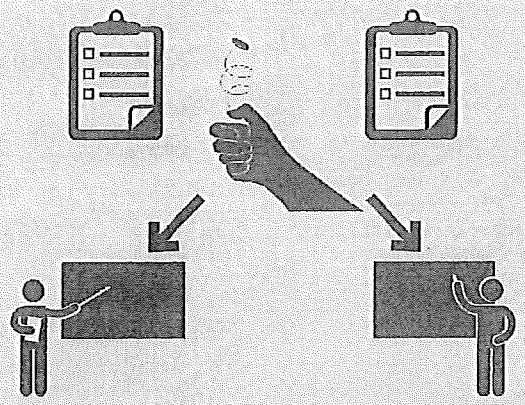
Figure 1

Putting Measures of Effective Teaching to the Test with Random Assignment

1. Principals created rosters for each class

2. The rosters were assigned randomly within each grade and subject

3. We predicted student outcomes based on teachers' previous results, observations, and student surveys.





4. We compared those predictions to actual differences.

Do measures of teaching really identify teachers who help students learn more, or do seemingly more effective teachers just get better students? To find out, the MET project orchestrated a large-scale experiment with MET project teachers to see if teachers identified as more effective than their peers would have greater student achievement gains even with students who were assigned randomly.

To do so, the MET project first estimated teachers' effectiveness using multiple measures from the 2009–10 school year. As is common in schools, some teachers had been assigned students with stronger prior achievement than others. In assessing each teacher's practice that year, the project controlled for students' prior achievement and demographic characteristics. But there may have been other differences among students as well. So for the following school year (2010–11), principals created rosters of students for each class in the study, and then researchers randomly assigned each roster to a participating teacher from among those who could teach the class.

At the end of the 2010–11 school year, MET project analysts checked to see if students taught by teachers identified as more effective than their colleagues actually had greater achievement gains than students taught by teachers identified as less effective. They also checked to see how well actual student achievement gains for teachers matched predicted gains.

represents 5 percent of the teachers in the analysis, sorted based on their predicted impact on student achievement.[4]

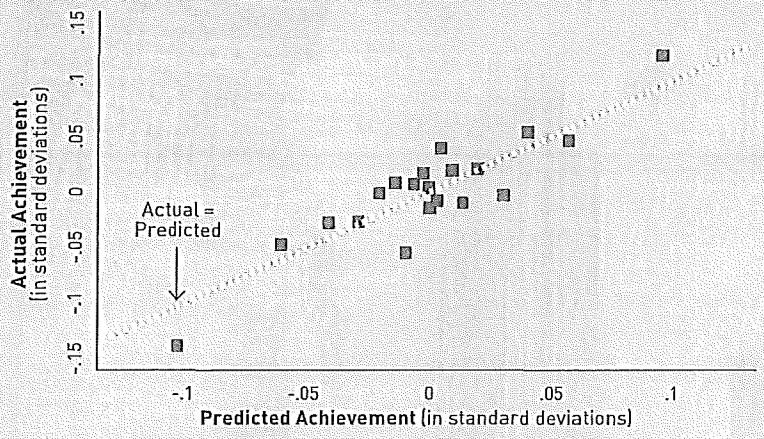
As seen in **Figure 2**, in both math and English language arts (ELA), the groups of teachers with greater predicted impacts on student achievement generally had greater actual impacts on student achievement following random assignment. Further, the actual impacts are approximately in line with the predicted impacts.[5] We also found that teachers who we identified as being effective in promoting achievement on the state tests also generated larger gains on the supplemental tests administered in spring 2011.

Based on our analysis, we can unambiguously say that school systems should account for the prior test scores of students. When we removed this control, we wound up predicting much larger differences in achievement than actually occurred, indicating that student assignment biased the results. However, our analysis could not shed as much light on the need to control for demographics or "peer effects"—that is, the average prior achievement and demographics of each student's classmates. Although we included those

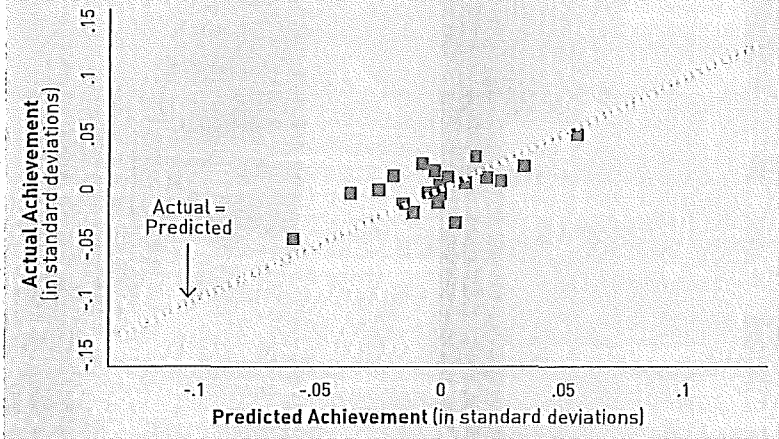
Figure 2

Effectiveness Measures Identify Teachers Who Help Students Learn More

Actual and Predicted Achievement of Randomized Classrooms (Math)



Actual and Predicted Achievement of Randomized Classrooms (English Language Arts)



These charts compare the actual 2010–11 school year achievement gains for randomly assigned classrooms with the results that were predicted based on the earlier measures of teaching effectiveness. Each dot represents the combination of actual and estimated student performance for 5 percent of the teachers in the study, grouped by the teachers' estimated effectiveness. The dashed line shows where the dots would be if the actual and predicted gains matched perfectly.

On average, students of teachers with higher teacher effectiveness estimates outperformed students of teachers with lower teacher effectiveness estimates. Moreover, the magnitude of students' actual gains largely corresponded with gains predicted by their effectiveness measured the previous year. Both the actual and predicted achievement are reported relative to the mean in the randomization block. That is, a zero on either axis implies that the value was no different from the mean for the small group of teachers in a grade, subject, and school within which class lists were randomized.

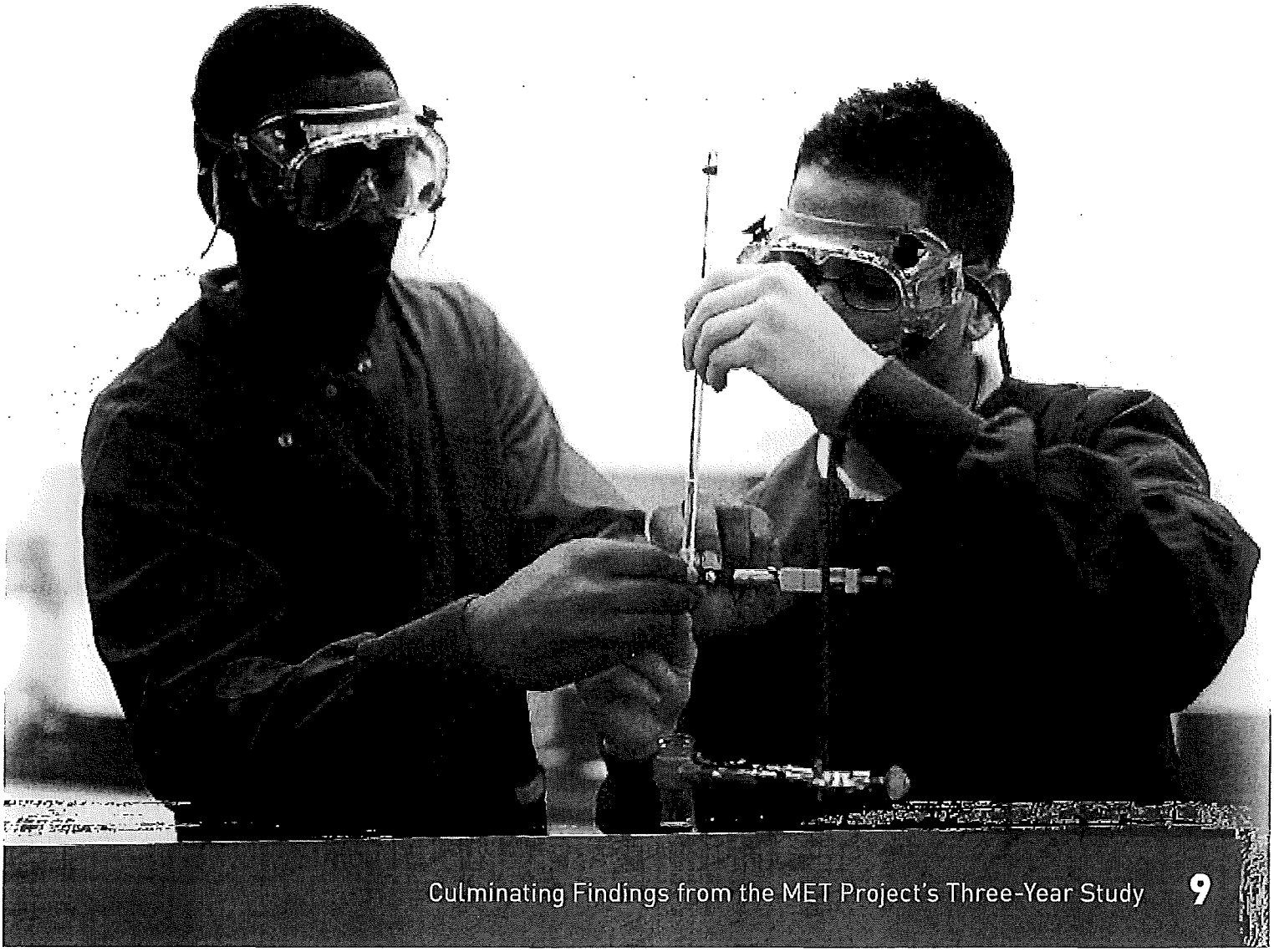
Impacts are reported in student-level standard deviations. A .25 standard deviation difference is roughly equivalent to a year of schooling. The predicted impacts are adjusted downward to account for incomplete compliance with randomization.

"We can unambiguously say that school systems should adjust their achievement gain measures to account for the prior test scores of students. When we removed this control, we wound up predicting much larger differences in achievement than actually occurred."

controls, we cannot determine from our evidence whether school systems should include them. Our results were ambiguous on that score.

To avoid over-interpretation of these results, we hasten to add two caveats: First, a prediction can be correct on average but still be subject to measurement error. Our predictions of students' achievement following random assignment were correct on average, but within every group there were some teachers whose students performed better than predicted and some whose students performed worse. Second, we could not, as a practical matter, randomly assign students or teachers to a different school site. As a result, our study does not allow us to investigate bias in teacher effectiveness measures arising from student sorting between different schools.[6]

Nonetheless, our analysis should give heart to those who have invested considerable effort to develop practices and policies to measure and support effective teaching. Through this large-scale study involving random assignment of teachers to students, we are confident that we can identify groups of teachers who are comparatively more effective than their peers in helping students learn. Great teaching does make a difference.



How Much Weight Should Be Placed on Each Measure of Effective Teaching?[7]

Teaching is too complex for any single measure of performance to capture it accurately. Identifying great teachers requires multiple measures. While states and districts embrace multiple measures for targeted feedback, many also are combining measures into a single index, or composite. An index or composite can be a useful summary of complex information to support decisionmaking. The challenge is to combine measures in ways that support effective teaching while avoiding such unintended consequences as too-narrow a focus on one aspect of effective teaching.

To date, there has been little empirical evidence to suggest a rationale for particular weights. The MET project's report *Gathering Feedback for Teaching* showed that equally weighting three measures, including achievement gains, did a better job predicting teachers' success (across several student outcomes) than teachers' years of experience and masters' degrees. But that work did not attempt to determine optimal weights for composite measures.

Over the past year, a team of MET project researchers from the RAND Corporation and Dartmouth College used MET project data to compare differently weighted composites and study the implications of different weighting schemes for different outcomes. As in the *Gathering Feedback for Teaching* report, these composites included student achievement gains based on state assessments, classroom observations, and student surveys. The researchers estimated the ability of variously weighted composites to produce consistent results and accurately forecast teachers' impact on student achievement gains on different types of tests.

The goal was not to suggest a specific set of weights but to illustrate the trade-offs involved when choosing weights. Assigning significant weight to one measure might yield the best predictor of future performance on that measure. But heavily weighting a single measure may incentivize teachers to focus too narrowly on a single aspect

of effective teaching and neglect its other important aspects. For example, a singular focus on state tests could displace gains on other harder-to-measure outcomes. Moreover, if the goal is for students to meet a broader set of learning objectives than are measured by a state's tests, then too-heavily weighting that test could make it harder to identify teachers who are producing other valued outcomes.

Composites Compared

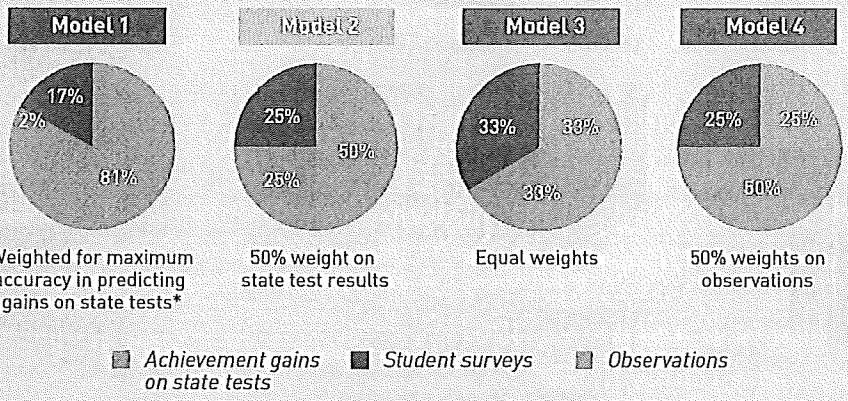
The research team compared four different weighting models, illustrated in **Figure 3:** (Model 1) The "best predictor" of state achievement test gains (with weights calculated to maximize the ability to predict teachers' student achievement gains on state tests, resulting in 65+ percent of the weight being placed on the student achievement gains across grades and subjects); (Model 2) a composite that assigned 50 percent of the weight to students' state achievement test gains; (Model 3) a composite that applied equal weights to each measure; and (Model 4) one that gave 50 percent to observation ratings and 25 percent each to achievement gains and student surveys. The weights that best predict state tests, shown for Model 1 in **Figure 3,** were calculated to predict gains on state ELA tests at the middle school level, which assigns a whopping 81 percent of the weight to prior gains on the same tests (best-predictor weights for other grades and subjects are in the table on page 14).

Figure 4 compares the different weighting schemes on three criteria, using middle school ELA as an example (see the table on page 14 for other grades and subjects). The first is predicting teachers' student achievement gains on state assessments. A correlation of 1.0 would indicate perfect accuracy in

> "Heavily weighting a single measure may incentivize teachers to focus too narrowly on a single aspect of effective teaching and neglect its other important aspects. ... [I]f the goal is for students to meet a broader set of learning objectives than are measured by a state's tests, then too-heavily weighting that test could make it harder to identify teachers who are producing other valued outcomes."

Figure 3

Four Ways to Weight



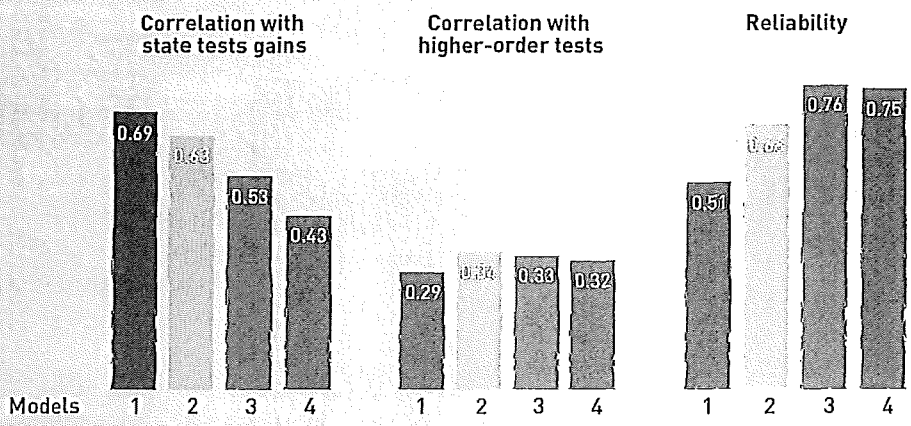
**Weights shown for Model 1 were calculated to best predict gains on state tests for middle school English language arts. Similar best predictor weights for other grades and subjects are in the table on page 14.*

These charts illustrate four ways to construct a composite measure of effective teaching. Each model uses different weights but includes the same components— student achievement gains on the state tests, student perception surveys, and classroom observations. Model 1 uses the weights that would best predict a teacher's impact on state test scores. Across grades and subjects, the "best predictor" model assigns 65 percent or more of the weight to a teacher's prior state test gains. Models 2–4 are not based on maximizing any particular outcome. They approximate different weighting schemes used by states and districts, with each model placing progressively less weight on student achievement gains on state tests.

Figure 4

Trade-Offs from Different Weighting Schemes

Middle School English Language Arts



These bars compare the four weighting schemes in Figure 3 on three criteria: accuracy in predicting teachers' achievement gains on state tests; accuracy in predicting student achievement gains on supplemental assessments designed to test higher-order thinking skills; and reliability, reflecting the year-to-year stability of teachers' results. Shown are the results for middle school ELA (see Table 1 on page 14 for results for other grades and subjects).

As indicated, Model 2 (50 percent state test results) and Model 3 (33 percent state tests) achieve much of the same predictive power as Model 1 (the "best predictor" of state test results) in anticipating teachers' future state test results (Model 1). Model 4 (50 percent observation) is considerably less predictive. However, the figures also illustrate two other trade-offs. Models 2 and 3 also are somewhat better than Model 1 at predicting gains on the tests of higher-order thinking skills (for all but elementary school math). Across most grades and subjects, Model 1 was the least reliable.

predicting teachers' student achievement gains on state tests. By definition, the best composite in this regard is Model 1, the model weighted for maximizing accuracy on state test results. Models 2–4 show the effect of reducing weights on student achievement gains on state tests for middle school ELA. As shown from middle school ELA, reducing weights on student achievement gains decreases the power to predict future student achievement gains on state tests from 0.69 to 0.63 with Model 2; to 0.53 with Model 3; and to 0.43 with Model 4. Other grades and subjects showed similar patterns, as indicated in the table on page 14.

While it is true that the state tests are limited and that schools should value other outcomes, observations and student surveys may not be more correlated with those other outcomes than the state tests. As a result, we set out to test the strength of each model's correlation with another set of test outcomes. The middle set of bars in **Figure 4** compares the four models (see Figure 3)—each using state test results to measure achievement gains—on how well they would predict teachers' student achievement gains on supplemental tests that were administered in MET project teachers' classrooms: The SAT 9 Open-Ended Reading Assessment (SAT 9 OE) and the Balanced Assessment in Mathematics (BAM).

While covering less material than state tests, the SAT 9 OE and BAM assessments include more cognitively challenging items that require writing, analysis, and application of concepts, and they are meant to assess higher-order thinking skills. Sample items released by the assessment consortia for the new Common Core State Standards assessments are more similar to the items on these supplemental tests than the ones on the state assessments. Shown in **Figure 4** is the effect of reducing the weight on state test gains in predicting gains on these other assessments, again for middle school ELA. For most grades and subjects, Model 2 and Model 3 (50 percent state test and equal weights for all three measures) best predicted teachers' student achievement gains on these supplemental assessments, with little difference between the two models. The one exception was elementary school math, where Model 1 (best predictor) was best.

The third set of bars in **Figure 4** compares composites on their reliability—that is, the extent to which the composite would produce consistent results for the same teachers from year to year (on a scale from 0–1.0, with

Increasing Accuracy, Reducing Mistakes

When high-stakes decisions must be made, can these measures support them? Undoubtedly, that question will be repeated in school board meetings and in faculty break rooms around the country in the coming years.

The answer is yes, not because the measures are perfect (they are not), but because the combined measure is better on virtually every dimension than the measures in use now. There is no way to avoid the stakes attached to every hiring, retention, and pay decision. And deciding not to make a change is, after all, a decision. No measure is perfect, but better information should support better decisions.

In our report *Gathering Feedback for Teaching*, we compared the equally weighted measure (Model 3 in Figures 3 and 4) to two indicators that are almost universally used for pay or retention decisions today: teaching experience and possession of a master's degree. On every student outcome—the state tests, supplemental tests, student's self-reported level of effort and enjoyment in class—the teachers who excelled on the composite measure had better outcomes than those with high levels of teaching experience or a master's degree.

In addition, many districts currently require classroom observations, but they do not include student surveys or achievement gains. We tested whether observations alone are enough. Even with four full classroom observations (two by one observer and two by another), conducted by observers trained and certified by the Educational Testing Service, the observation-only model performed far worse than any of our multiple measures composites. (The correlations comparable to those in Figure 5 would have been .14 and .25 with the state tests and test of higher-order skills.)

Still, it is fair to ask, what might be done to reduce error? Many steps have been discussed in this and other reports from the project:

- First, if any type of student data is to be used—either from tests or from student surveys—school systems should give teachers a chance to correct errors in their student rosters.
- Second, classroom observers should not only be trained on the instrument. They should first demonstrate their accuracy by scoring videos or observing a class with a master observer.
- Third, observations should be done by more than one observer. A principal's observation is not enough. To ensure reliability, it is important to involve at least one other observer, either from inside or outside the school.
- Fourth, if multiple years of data on student achievement gains, observations, and student surveys are available, they should be used. For novice teachers and for systems implementing teacher evaluations for the first time, there may be only a single year available. We have demonstrated that a single year contains information worth acting on. But the information would be even better if it included multiple years. When multiple years of data are available they should be averaged (although some systems may choose to weight recent years more heavily).

1.0 representing perfect consistency and no volatility). Again, results shown are for middle school ELA. Across all grades and subjects, the most reliable composites were either Models 2 (50 percent state test) or 3 (equal weights). For all but middle school math, the least reliable composite was Model 1 (best predictor). Model 4 (50 percent observations) was somewhat less reliable than Model 2 (equal weights) for all grades and subjects. Although not shown, student achievement gains on state tests by themselves are less stable than all of the composites, with one exception: Model 4 (50 percent observations) is slightly less stable than achievement gains alone for middle school math.

General Implications

The intent of this analysis was not to recommend an ideal set of weights to use in every circumstance. Rather, our goal was to describe the trade-offs among different approaches.[8]

If the goal is to predict gains on state tests, then the composites that put 65+ percent of the weight on the student achievement gains on those tests will generally show the greatest accuracy. However, reducing the weights on the state test achievement gain measures to 50 percent or 33 percent generates two positive trade-offs: it increases stability (lessens volatility from year to year) and it also increases somewhat the correlation with tests other than the state tests.

However, it is possible to go too far. Lowering the weight on state test achievement gains below 33 percent, and raising the weight on observations to 50 percent and including student surveys at 25 percent, is counterproductive. It not only lowers the

Table 1

CALCULATED WEIGHTS FOR MAXIMUM ACCURACY IN PREDICTING GAINS ON STATE TESTS

	English Language Arts			Math		
	State Tests	Observations	Student Surveys	State Tests	Observations	Student Surveys
Elementary	65%	9%	25%	85%	5%	11%
Middle	81%	2%	17%	91%	4%	5%

RELIABILITY AND ACCURACY OF DIFFERENT WEIGHTING SCHEMES

		English Language Arts				Math			
		Weighted for Max State Test Accuracy	50% State Test	Equal Weights	50% Observations	Weighted for Max State Test Accuracy	50% State Test	Equal Weights	50% Observations
Elementary	Reliability	0.42	0.46	0.50	0.49	0.52	0.57	0.57	0.55
	Correlation with state test	0.61	0.59	0.53	0.45	0.72	0.65	0.54	0.46
	Correlation with higher-order test	0.35	0.37	0.37	0.35	0.31	0.29	0.25	0.20
Middle	Reliability	0.51	0.66	0.76	0.75	0.86	0.88	0.88	0.83
	Correlation with state test	0.69	0.63	0.53	0.43	0.92	0.84	0.73	0.65
	Correlation with higher-order test	0.29	0.34	0.33	0.32	0.38	0.44	0.45	0.45

correlation with state achievement gains; it can also lower reliability and the correlation with other types of testing outcomes.

Ultimately, states, local education authorities, and other stakeholders need to decide how to weight the measures in a composite. Our data suggest that assigning 50 percent or 33 percent of the weight to state test results maintains considerable predictive power, increases reliability, and potentially avoids the unintended negative consequences from assigning too-heavy weights to a single measure. Removing too much weight from state tests, however, may not be a good idea, given the lower predictive power and reliability of Model 4 (25 percent state tests). In short, there is a range of reasonable weights for a composite of multiple measures.

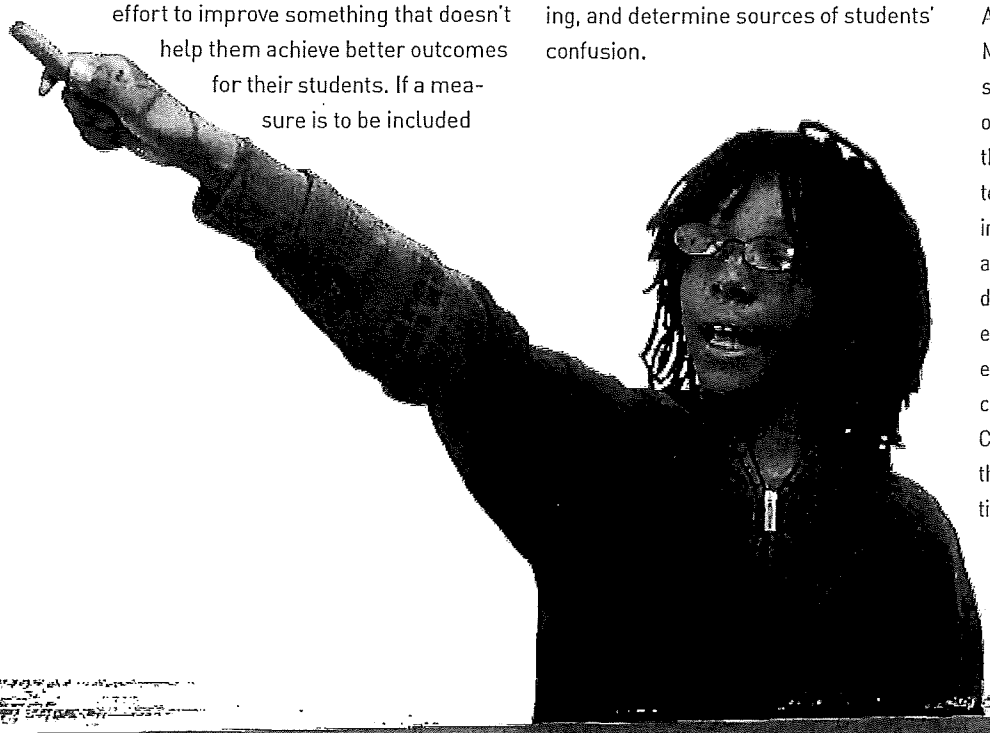
Validity and Content Knowledge for Teaching

Teachers shouldn't be asked to expend effort to improve something that doesn't help them achieve better outcomes for their students. If a measure is to be included in formal evaluation, then it should be shown that teachers who perform better on that measure are generally more effective in improving student outcomes. This test for "validity" has been central to the MET project's analyses. Measures that have passed this test include high-quality classroom observations, well-designed student-perception surveys, and teachers' prior records of student achievement gains on state tests.

Over the past year, MET project researchers have investigated another type of measure, called the Content Knowledge for Teaching (CKT) tests. These are meant to assess teachers' understanding of how students acquire and understand subject-specific skills and concepts in math and ELA. Developed by the Educational Testing Service and researchers at the University of Michigan, these tests are among the newest measures of teaching included in the MET project's analyses. Mostly multiple choice, the questions ask how to best represent ideas to students, assess student understanding, and determine sources of students' confusion.

The CKT tests studied by the MET project did not pass our test for validity. MET project teachers who performed better on the CKT tests were not substantively more effective in improving student achievement on the outcomes we measured. This was true whether student achievement was measured using state tests or the supplemental assessments of higher-order thinking skills. For this reason, the MET project did not include CKT results within its composite measure of effective teaching.

These results, however, speak to the validity of the current measure still early in its development in predicting achievement gains on particular student assessments—not to the importance of content-specific pedagogical knowledge. CKT as a concept remains promising. The teachers with higher CKT scores did seem to have somewhat higher scores on two subject-based classroom observation instruments: the Mathematical Quality of Instruction (MQI) and the Protocol for Language Arts Teacher Observations (PLATO). Moreover, the MET project's last report suggested that some content-specific observation instruments were better than cross-subject ones in identifying teachers who were more effective in improving student achievement in ELA and math. Researchers will continue to develop measures for assessing teachers' content-specific teaching knowledge and validating them as states create new assessments aligned to the Common Core State Standards. When they have been shown to be substantively related to a teacher's students' achievement gains, these should be considered for inclusion as part of a composite measure of effective teaching.



How Can Teachers Be Assured Trustworthy Results from Classroom Observations?[9]

Classroom observations can be powerful tools for professional growth. But for observations to be of value, they must reliably reflect what teachers do throughout the year, as opposed to the subjective impressions of a particular observer or some unusual aspect of a particular lesson. Teachers need to know they are being observed by the right people, with the right skills, and a sufficient number of times to produce trustworthy results. Given this, the challenge for school systems is to make the best use of resources to provide teachers with high-quality feedback to improve their practice.

"For the same total number of observations, incorporating additional observers increases reliability."

The MET project's report *Gathering Feedback for Teaching* showed the importance of averaging together multiple observations from multiple observers to boost reliability. Reliability represents the extent to which results reflect consistent aspects of a teacher's practice, as opposed to other factors such as observer judgment. We also stressed that observers must be well-trained and assessed for accuracy before they score teachers' lessons.

But there were many practical questions the MET project couldn't answer in its previous study. Among them:

- Can school administrators reliably assess the practice of teachers in their schools?
- Can additional observations by external observers not familiar with a teacher increase reliability?
- Must all observations involve viewing the entire lesson or can partial lessons be used to increase reliability? And,
- What is the incremental benefit of adding additional lessons and additional observers?

These questions came from our partners, teachers, and administrators in urban school districts. In response, with the help of a partner district, the Hillsborough County (Fla.) Public Schools, the MET project added a study of classroom observation

Hillsborough County's Classroom Observation Instrument

Like many school districts, Hillsborough County uses an evaluation instrument adapted from the Framework for Teaching, developed by Charlotte Danielson. The framework defines four levels of performance for specific competencies in four domains of practice. Two of those domains pertain to activities outside the classroom: Planning and Preparation, and Professional Responsibility. Observers rated teachers on the 10 competencies in the framework's two classroom-focused domains, as shown:

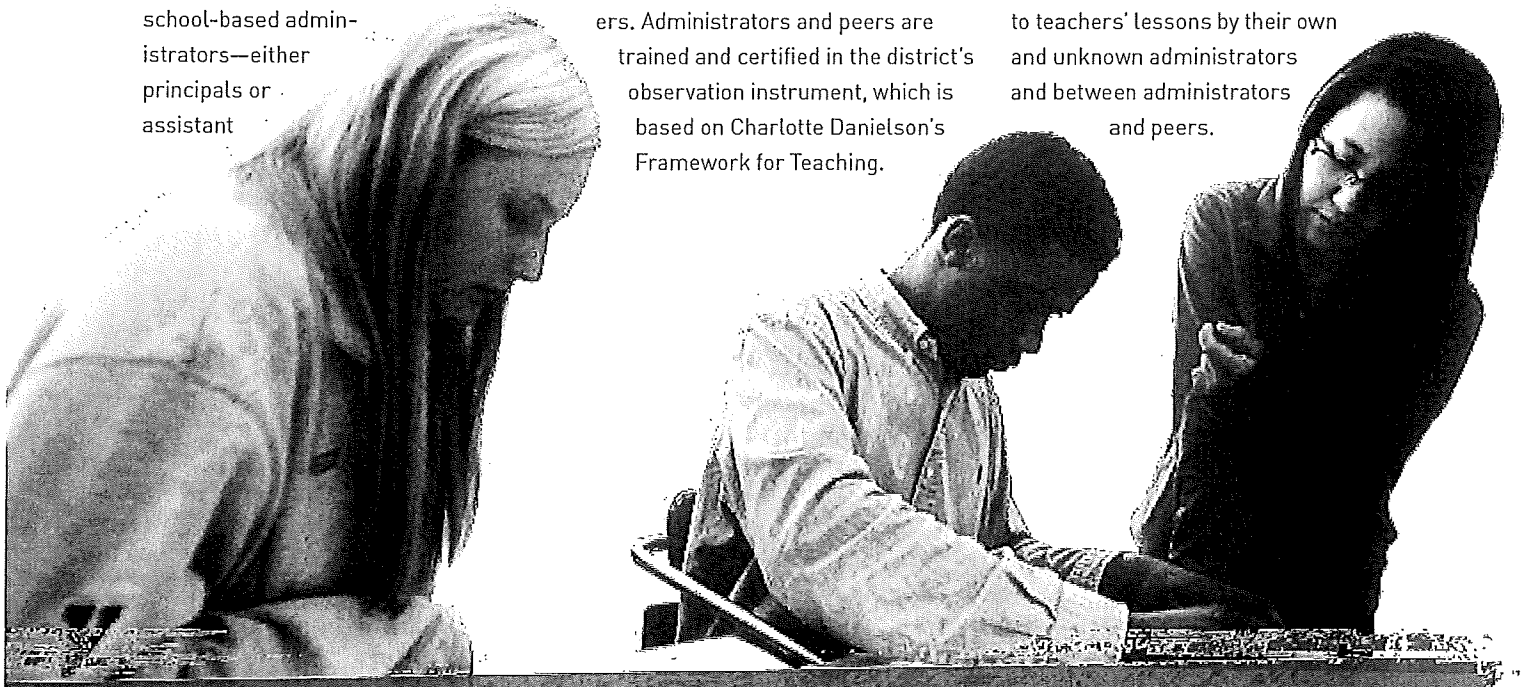
Domain 2: The Classroom Environment	Domain 3: Instruction
▪ Creating an Environment of Respect and Rapport	▪ Communicating with Students
▪ Establishing a Culture of Learning	▪ Using Discussion and Questioning Techniques
▪ Managing Classroom Procedures	▪ Engaging Students in Learning
▪ Managing Student Behavior	▪ Using Assessment in Instruction
▪ Organizing Physical Space	▪ Demonstrating Flexibility and Responsiveness

reliability. This study engaged district administrators and teacher experts to observe video-recorded lessons of 67 Hillsborough County teachers who agreed to participate.

Comparison of Ratings

Two types of observers took part in the study: Fifty-three were school-based administrators—either principals or assistant principals—and 76 were peer observers. The latter are district-based positions filled by teachers on leave from the classroom who are responsible for observing and providing feedback to teachers in multiple schools. In Hillsborough County's evaluation system, teachers are observed multiple times, formally and informally, by their administrators and by peer observers. Administrators and peers are trained and certified in the district's observation instrument, which is based on Charlotte Danielson's Framework for Teaching.

These observers each rated 24 lessons for us and produced more than 3,000 ratings that we could use to investigate our questions. MET project researchers were able to calculate reliability for many combinations of observers (administrator and peer), lessons (from 1 to 4), and observation duration (full lesson or 15 minutes). We were able to compare differences in the ratings given to teachers' lessons by their own and unknown administrators and between administrators and peers.



Effects on Reliability

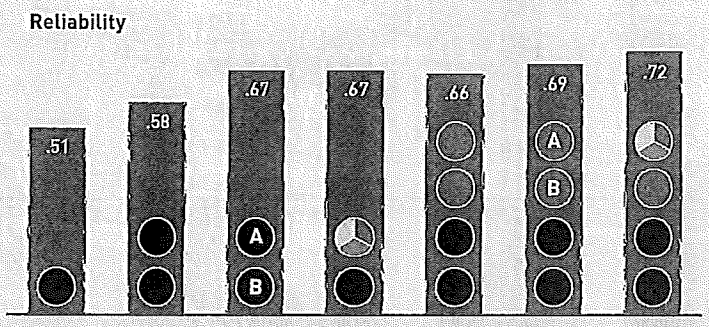
Figure 5 graphically represents many of the key findings from our analyses of those ratings. Shown are the estimated reliabilities for results from a given set of classroom observations. Reliability is expressed on a scale from 0 to 1. A higher number indicates that results are more attributable to the particular teacher as opposed to other factors such as the particular observer or lesson. When results for the same teachers vary from lesson to lesson or from observer to observer, then averaging teachers' ratings across multiple lessons or observers decreases the amount of "error" due to such factors, and it increases reliability.

Adding lessons and observers increases the reliability of classroom observations. In our estimates, if a teacher's results are based on two lessons, having the second lesson scored by a second observer can boost reliability significantly. This is shown in **Figure 5:** When the same administrator observes a second lesson, reliability increases from .51 to .58, but when the second lesson is observed by a different administrator from the same school, reliability increases more than twice as much, from .51 to .67. Whenever a given number of lessons was split between multiple observers, the reliability was greater than that achieved by a single observer. In other words, for the same total number of observations, incorporating additional observers increases reliability.

Of course, it would be a problem if school administrators and peer observers produced vastly different results for the same teachers. But we didn't find that to be the case. Although administrators gave higher scores to their own teachers, their rankings of their own teachers were similar to those produced by peer observers and administrators from other schools. This implies that administrators are seeing the same

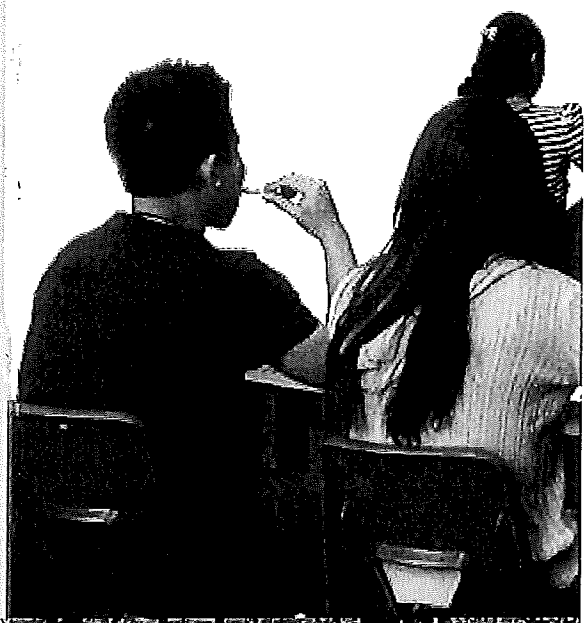
Figure 5

There Are Many Roads to Reliability



Lesson observed by own administrator = 45 min
Lesson observed by peer observer = 45 min
Three 15-minute lessons observed by three additional peer observers = 45 min
A and **B** denote different observers of the same type

These bars show how the number of observations and observers affects reliability. Reliability represents the extent to which the variation in results reflects consistent aspects of a teacher's practice, as opposed to other factors such as differing observer judgments. Different colors represent different categories of observers. The "A" and "B" in column three show that ratings were averaged from two different own-school observers. Each circle represents approximately 45 minutes of observation time (a solid circle indicates one observation of that duration, while a circle split into three indicates three 15-minute observations by three observers). As shown, reliabilities of .66–.72 can be achieved in multiple ways, with different combinations of number of observers and observations. (For example, one observation by a teacher's administrator when combined with three short, 15-minute observations each by a different observer would produce a reliability of .67.)



things in the videos that others do, and they are not being swayed by personal biases.

If additional observations by additional observers are important, how can the time for those added observations be divided up to maximize the use of limited resources while assuring trustworthy results? This is an increasingly relevant question as more school systems make use of video in providing teachers with feedback on their practice. Assuming multiple videos for a teacher exist, an observer could use the same amount of time to watch one full lesson or two or three partial lessons. But to consider the latter, one would want to know whether partial-lesson observations increase reliability.

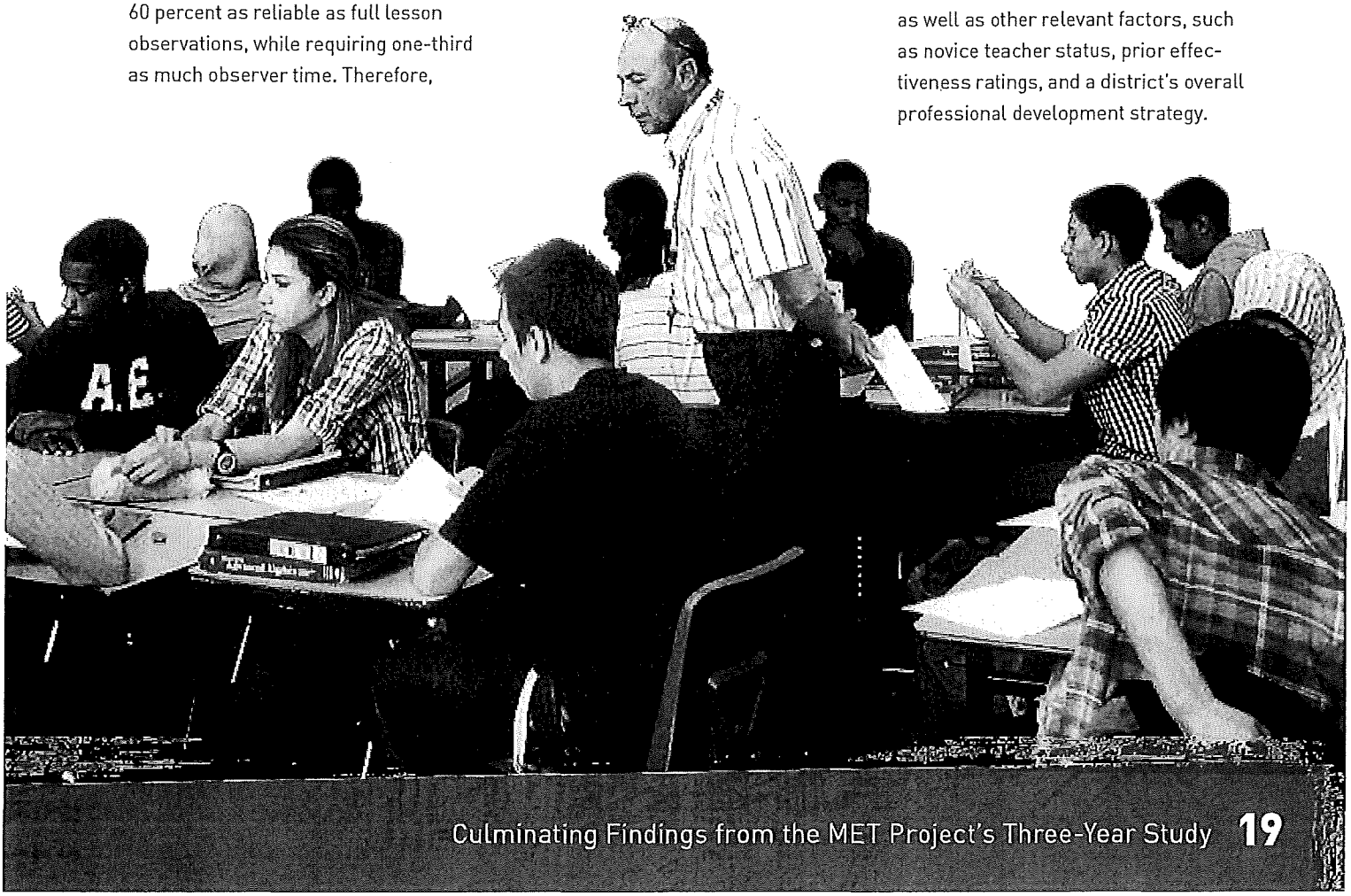
Our analysis from Hillsborough County showed observations based on the first 15 minutes of lessons were about 60 percent as reliable as full lesson observations, while requiring one-third as much observer time. Therefore, one way to increase reliability is to expose a given teacher's practice to multiple perspectives. Having three different observers each observe for 15 minutes may be a more economical way to improve reliability than having one additional observer sit in for 45 minutes. Our results also suggest that it is important to have at least one or two full-length observations, given that some aspects of teaching scored on the Framework for Teaching (Danielson's instrument) were frequently not observed during the first 15 minutes of class.

> "Although administrators gave higher scores to their own teachers, their rankings of their own teachers were similar to those produced by external observers and administrators from other schools."

Together, these results provide a range of scenarios for achieving reliable classroom observations. There is a point where both additional observers and additional observations do little to reduce error. Reliability above 0.65 can be achieved with several configurations (see **Figure 5**).

Implications for Districts

Ultimately, districts must decide how to allocate time and resources to classroom observations. The answers to the questions of how many lessons, of what duration, and conducted by whom are informed by reliability considerations, as well as other relevant factors, such as novice teacher status, prior effectiveness ratings, and a district's overall professional development strategy.



What We Know Now

In three years we have learned a lot about how multiple measures can identify effective teaching and the contribution that teachers can make to student learning. The goal is for such measures to inform state and district efforts to support improvements in teaching to benefit all students. Many of these lessons have already been put into practice as school systems eagerly seek out evidence-based guidance. Only a few years ago the norm for teacher evaluation was to assign "satisfactory" ratings to nearly all teachers evaluated while providing virtually no useful information to improve practice.[10] Among the significant lessons learned through the MET project and the work of its partners:

- **Student perception surveys and classroom observations can provide meaningful feedback to teachers.** They also can help system leaders prioritize their investments in professional development to target the biggest gaps between teachers' actual practice and the expectations for effective teaching.
- **Implementing specific procedures in evaluation systems can increase trust in the data and the results.** These include rigorous training and certification of observers; observation of multiple lessons by different observers; and in the case of student surveys, the assurance of student confidentiality.
- **Each measure adds something of value.** Classroom observations provide rich feedback on practice. Student perception surveys provide a reliable indicator of the learning environment and give voice to the intended beneficiaries of instruction. Student learning gains (adjusted to account for differences among students) can help identify groups of teachers who, by virtue of their instruction, are helping students learn more.
- **A balanced approach is most sensible when assigning weights to form a composite measure.** Compared with schemes that heavily weight one measure, those that assign 33 percent to 50 percent of the weight to student achievement gains achieve more consistency, avoid the risk of encouraging too narrow a focus on any one aspect of teaching, and can support a broader range of learning objectives than measured by a single test.
- **There is great potential in using video for teacher feedback and for the training and assessment of observers.** The advances made in this technology have been significant, resulting in lower costs, greater ease of use, and better quality.

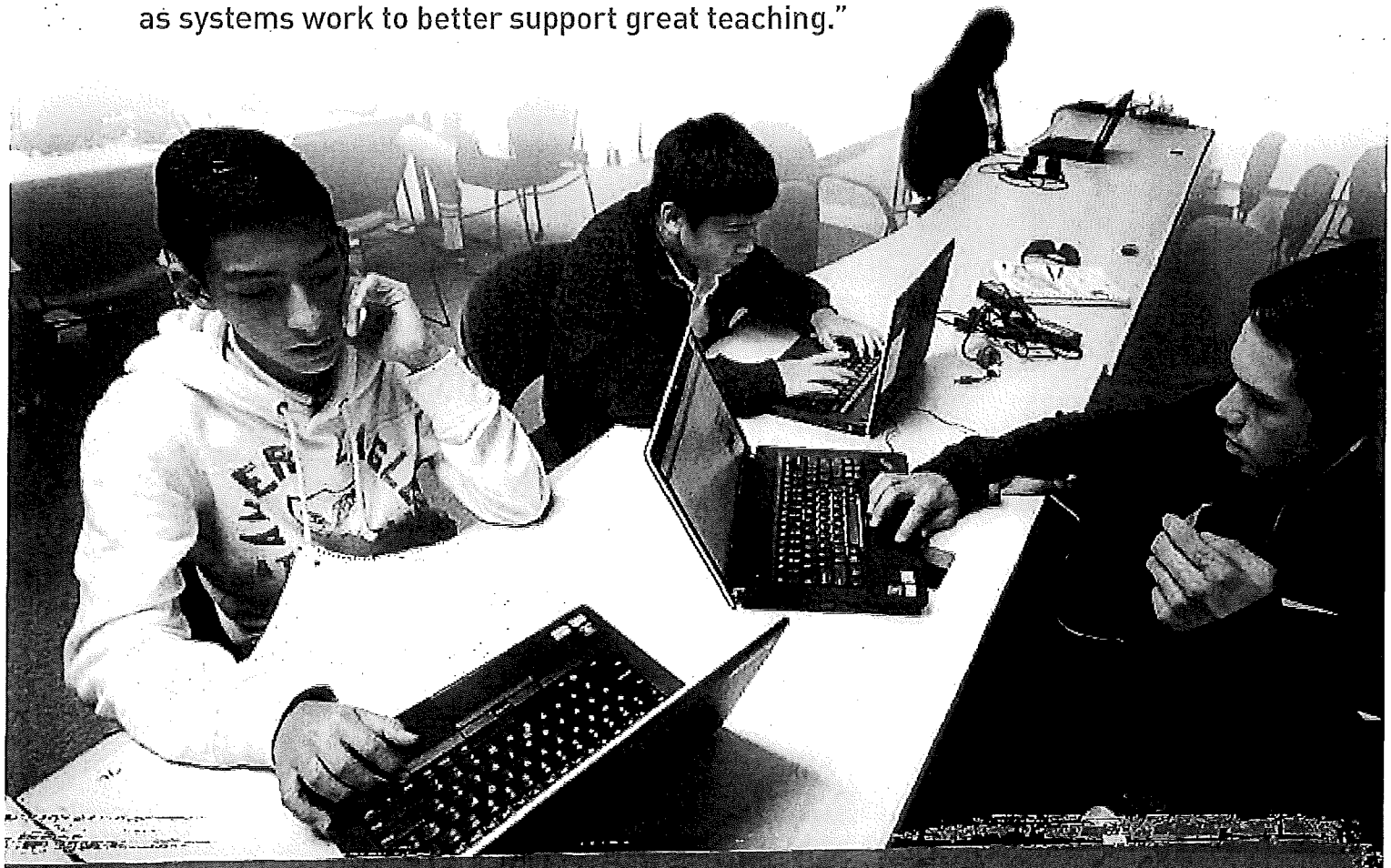
The Work Ahead

As we move forward, MET project teachers are supporting the transition from research to practice. More than 300 teachers are helping the project build a video library of practice for use in professional development. They will record more than 50 lessons each by the end of this school year and make these lessons available to states, school districts, and other organizations committed to improving effective teaching. This will allow countless educators to analyze instruction and see examples of great teaching in action.

Furthermore, the unprecedented data collected by the MET project over the past three years are being made available to the larger research community to carry out additional analyses, which will increase knowledge of what constitutes effective teaching and how to support it. MET project partners already are tapping those data for new studies on observer training, combining student surveys and observations, and other practical concerns. Finally, commercially available video-based tools for observer training and certification now exist using the lessons learned from the MET project's studies.

Many of the future lessons regarding teacher feedback and evaluation systems must necessarily come from the field, as states and districts innovate, assess the results, and make needed adjustments. This will be a significant undertaking, as systems work to better support great teaching. Thanks to the hard work of MET project partners, we have a solid foundation on which to build.

"Many of the future lessons regarding teacher feedback and evaluation systems must necessarily come from the field, as states and districts innovate, assess the results, and make needed adjustments. This will be a significant undertaking, as systems work to better support great teaching."



Endnotes

1. The lead authors of this brief are Steven Cantrell, Chief Research Officer at the Bill & Melinda Gates Foundation, and Thomas J. Kane, Professor of Education and Economics at the Harvard Graduate School of Education and principal investigator of the Measures of Effective Teaching (MET) project. Lead authors of the related research papers are Thomas J. Kane (Harvard), Daniel F. McCaffrey (RAND), and Douglas O. Staiger (Dartmouth). Essential support came from Jeff Archer, Sarah Buhayar, Alejandro Ganimian, Andrew Ho, Kerri Kerr, Erin McGoldrick, and David Parker. KSA-Plus Communications provided design and editorial assistance.

2. This section summarizes the analyses and key findings from the research report *Have We Identified Effective Teachers?* by Thomas J. Kane, Daniel F. McCaffrey, Trey Miller, and Douglas O. Staiger. Readers who want to review the full set of findings can download that report at www.metproject.org.

3. As expected, not every student on a randomly assigned roster stayed in the classroom of the intended teacher. Fortunately, we could track those students. We estimated the effects of teachers on student achievement using a statistical technique commonly used in randomized trials called "instrumental variables."

4. These predictions, as well as the average achievement outcomes, are reported relative to the average among participating teachers in the same school, grade, and subject.

5. Readers may notice that some of the differences in Figure 2 are smaller than the differences reported in earlier MET reports. Due to non-compliance—students not remaining with their randomly assigned teacher—only about 30 percent of the randomly assigned difference in teacher effectiveness translated into differences in the effectiveness of students' actual teacher. The estimates in Figure 2 are adjusted for non-compliance. If all the students had remained with their randomly assigned teachers, we would have predicted impacts roughly three times as big. Our results imply that, without non-compliance, we would have expected to see differences just as large as included in earlier reports.

6. Other researchers have studied natural movements of teachers between schools (as opposed to randomly assigned transfers) and found no evidence of bias in estimated teacher effectiveness between schools. See Raj Chetty, John Friedman, and Jonah E. Rockoff, "The Long-Term Impacts of Teachers: Teacher Value-Added and Student Outcomes in Adulthood," working paper no. 17699, National Bureau of Economic Research, December 2011.

7. The findings highlighted in this summary and the technical details of the methods that produced them are explained in detail in the research paper "A Composite Estimator of Effective Teaching," by Kata Mihaly, Daniel McCaffrey, Douglas O. Staiger, and J.R. Lockwood. A copy may be found at www.metproject.org.

8. Different student assessments, observation protocols, and student survey instruments would likely yield somewhat different amounts of reliability and accuracy. Moreover, measures used for evaluation may produce different results than seen in the MET project, which attached no stakes to the measures it administered in the classrooms of its volunteer teachers.

9. This section summarizes key analyses and findings from the report *The Reliability of Classroom Observations by School Personnel* by Andrew D. Ho and Thomas J. Kane. Readers who want to review the full set of findings and methods for the analyses can download that report at www.metproject.org. The MET project acknowledges the hard work of Danni Greenberg Resnick and David Steele, of the Hillsborough County Public Schools, and the work of the teachers, administrators, and peer observers who participated in this study.

10. Weisburg, D. et al. (2009). *The Widget Effect: Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness.* Brooklyn: New Teacher Project.

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Journal of Economic Perspectives—Volume 24, Number 3—Summer 2010—Pages 97–118

Searching for Effective Teachers with Imperfect Information

Douglas O. Staiger and Jonah E. Rockoff

Teaching may be the most-scrutinized occupation in the economy. Over the past four decades, empirical researchers—many of them economists—have accumulated an impressive amount of evidence on teachers: the heterogeneity in teacher productivity, the rise in productivity associated with teaching credentials and on-the-job experience, rates of turnover, the costs of recruitment, the relationship between supply and quality, the effect of class size and the monetary value of academic achievement gains over a student's lifetime. Since the passage of the No Child Left Behind Act, along with a number of state-level educational initiatives, the data needed to estimate individual teacher performance based on student achievement gains have become more widely available. However, there have been relatively few efforts to examine the implications of this voluminous literature on teacher performance. In this paper, we ask what the existing evidence implies for how school leaders might recruit, evaluate, and retain teachers.

We begin by summarizing the evidence on five key points, referring to existing work and to evidence we have accumulated from our research with the nation's two largest school districts: Los Angeles and New York City. First, teachers display considerable heterogeneity in their effects on student achievement gains. The standard deviation across teachers in their impact on student achievement gains is on the order of 0.1 to 0.2 student-level standard deviations, which would improve the

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doi=10.1257/jep.24.3.97

median student's test score 4 to 8 percentiles in a single year.[1] Second, estimates of teacher effectiveness based on student achievement data are noisy measures and can be thought of as having reliability in the range of 30 to 50 percent. Third, teachers' effectiveness rises rapidly in the first year or two of their teaching careers but then quickly levels out. Fourth, the primary cost of teacher turnover is not the direct cost of hiring and firing, but rather is the loss to students who will be taught by a novice teacher rather than one with several years of experience. Fifth, it is difficult to identify those teachers who will prove more effective at the time of hire. As a result, better teachers can only be identified after some evidence on their actual job performance has accumulated.

We then explore what these facts imply for how principals and school districts should act, using a simple model in which schools must search for teachers using noisy signals of teacher effectiveness. Due to a lack of information available at the time of hire, we will argue for a hiring process that is not highly selective—that is, while it might require evidence of general educational achievement like a college degree, it would not require individuals to make costly up-front specific investments before being permitted to teach. We then argue that, given the substantial observed heterogeneity of teacher effects, the modest rise in productivity with on-the-job experience, and the fact that tenure is a lifetime job, tenure protections should be limited to those who meet a very high bar. Even with the imprecise estimates of teacher effectiveness currently available, our simulations suggest that a strategy that would sample extensively from the pool of potential teachers but offer tenure only to a small percentage could yield substantial annual gains in student achievement.

The implications of our analysis are strikingly different from current practice. Schools and school districts attempt to screen at the point of hiring and require significant investment in education-specific coursework but then grant tenure status to teachers as a matter of course after two to three years on the job. Performance evaluation is typically a perfunctory exercise and, at least officially, very few teachers are considered ineffective (Weisberg, Sexton, Mulhern, and Keeling, 2009). Rather than screening at the time of hire, the evidence on heterogeneity of teacher performance suggests a better strategy would be identifying large differences between teachers by observing the first few years of teaching performance and retaining only the highest-performing teachers.

[1] The metric of standard deviations is commonly used to assess the effect of educational interventions, and we will use it throughout this paper. To provide some context for readers unversed in this literature, the gap in achievement between poor and nonpoor students (or between black and white students) in the United States is roughly 0.8–0.9 standard deviations (authors' calculations based on data from the 2009 National Assessment of Educational Progress).

Five Facts about Teacher Effectiveness

Any approach to recruiting and retaining teachers is based, at least implicitly, on a set of beliefs. Here, we describe the evidence on five key parameters regarding teacher effectiveness.

Fact 1: Teacher Productivity Based on Gains in Student Achievement is Heterogeneous.

The fact that teachers are heterogeneous in their productivity suggests that there are potentially large gains to students if it is possible for school leaders to attract and retain highly effective teachers, and conversely to discourage or at least to avoid giving tenure to ineffective teachers.

More than three decades ago, Hanushek (1971) and Murnane (1975) were the first economists to report large differences in student achievement in different teachers' classrooms, even after controlling for students' prior achievement and characteristics. That literature has accelerated in recent years. Especially following the No Child Left Behind Act, many states and school districts began collecting annual data on students and matching it to teachers.[2] Research has produced remarkably consistent estimates of the heterogeneity in teacher impacts in different sites. For example, using data from Texas, Rivkin, Hanushek, and Kain (2005) find that a standard deviation in teacher quality is associated with 0.11 student-level standard deviations in math and 0.095 standard deviations in reading. Using data from two school districts in New Jersey, Rockoff (2004) reports that one standard deviation in teacher effects is associated with a 0.1 student-level standard deviation in achievement. Using data from Chicago, Aaronson, Barrow, and Sander (2007) report that a standard deviation in teacher quality is associated with a difference in math performance of 0.09 to 0.16 student-level standard deviations.[3]

How much should we care about these differences in effectiveness across teachers? To attach an approximate dollar value to them, one needs an estimate of the value of student achievement over the course of a student's lifetime. There is a long tradition in labor economics estimating the relationship between various types of test scores and the earnings of early-career workers (for example, Murnane,

[2] The data requirements for measuring heterogeneity in teaching effectiveness are high. First, one needs longitudinal data on achievement for individual students matched to specific teachers. Second, achievement data are needed on an annual basis to be able to track gains for each student over a single school year. (Prior to the No Child Left Behind legislation, many states tested at longer intervals, such as fourth and eighth grade.) Third, panel data on teachers are required as well, to be able to track performance of individual teachers over time. Teacher-level panel data are needed to account for school-level or classroom-level shocks to student achievement that contribute to the measurement error in classroom-level measures. In this journal, Kane and Staiger (2002) showed that conventional estimates of sampling error cannot account for the lack of persistence in school-level value-added estimates. There appear to be other school-level and classroom-level sources of error.

[3] Aaronson, Barrow, and Sander (2007) report the variance in teacher quality to be .02 to .06 grade-level equivalents (adjusted for sampling error). In table 1, they report the standard deviation in grade-level equivalents of eighth grade students to be 1.55 ($\sqrt{.02}/1.55 = .09$, $\sqrt{.06}/1.55 = .16$). Their study adjusted for sampling variation, but not for other classroom level sources of error.

Willett, and Levy, 1995; Neal and Johnson, 1996).[4] Kane and Staiger (2002) estimated that the value of a one standard deviation gain in math scores would have been worth $110,000 at age 18 using the Murnane et al. estimates, and $256,000 using the Neal and Johnson results. This implies that a one standard deviation increase in teacher effectiveness (that is, one that leads to an increase of about 0.15 standard deviations of student achievement for 20 students) has a value of around $330,000 to $760,000.

As several recent papers remind us, the statistical assumptions required for the identification of causal teacher effects with observational data are extraordinarily strong and rarely tested (Andrabi, Das, Khwaja, and Zajonc, 2009; McCaffrey, Lockwood, Koretz, Louis, and Hamilton, 2004; Raudenbush, 2004; Rothstein, 2010; Rubin, Stuart, and Zanutto, 2004; Todd and Wolpin, 2003). Teachers may be assigned classrooms of students that differ in unmeasured ways—such as consisting of more motivated students, or students with stronger unmeasured prior achievement or more engaged parents—that result in varying student achievement gains.

Despite these concerns, several pieces of evidence suggest that the magnitude of variation in teacher effects is driven by real differences in teacher quality. First, estimates tend to be highly correlated across a wide variety of specifications (Harris and Sass, 2006). Second, researchers have consistently found strong correlations between teacher effect estimates and evaluations made by school principals and other professional educators (Murnane, 1975; Jacob and Lefgren, 2008; Harris and Sass, 2009; Rockoff and Speroni, 2010; Tyler, Taylor, Kane, and Wooten, 2010). Third, while most studies of teacher effects rely on assumptions regarding matching of students with teachers at the classroom level, Rivkin, Hanushek, and Kain (2005) use a completely different approach that does not rely on this assumption and find similar estimates to the rest of the literature.

Finally, two studies based on random assignment of teachers to classrooms have found variation in teacher effects consistent with nonexperimental estimates, suggesting that estimated differences in teacher effectiveness are not driven by student sorting. Nye, Konstantopoulos, and Hedges (2004) reexamined data from the Tennessee STAR classroom size experiment, in which teachers were randomly assigned to classes of a given size. The differences in classroom-level student achievement that emerged within given class size groups were larger than would have been expected to occur due to chance and strikingly similar in magnitude to those estimated in nonexperimental studies. Kane and Staiger (2008) study a recent experiment in Los Angeles Unified School District in which pairs of teachers were

[4] Murnane, Willett, and Levy (1995) estimate that a one standard deviation difference in math test performance is associated with an 8 percent hourly wage increase for men and a 12.6 percent increase for women. These estimates may understate the value of academic achievement since the authors also control for years of schooling completed. Neal and Johnson (1996), who do not condition on educational attainment, estimate that an improvement of one standard deviation in test performance is associated with 18.7 and 25.6 percent increases in hourly wages for men and women, respectively. Of course, the cross-sectional relationship between tested achievement and earnings may overstate the causal value of academic achievement. However, while there have been attempts to estimate the causal value of years of schooling, we are not aware of estimates of the causal value of academic achievement.

randomly assigned to classrooms within the same elementary school and grade. They found that nonexperimental value-added estimates from a pre-experimental period were able to predict student achievement differences following random assignment: a one-point difference between randomly-assigned teachers in pre-experimental value added was associated with a one-point difference in student achievement following random assignment. Thus, the nonexperimental estimates for individual teachers were unbiased predictors of a teacher's impact on student achievement in the experiment.

Fact 2: Estimates of Heterogeneous Teacher Effects Include a Substantial Noise Component.

Ideally, estimates of the amount that teachers affect student achievement would be the same across classrooms or from year to year within the same teacher, but this does not hold true in practice. The error in estimates of teacher effects on student achievement derives from at least two sources. The first is sampling variation. The typical elementary classroom may have 20 to 25 students per year (although middle and high school teachers have somewhat larger classes and typically teach multiple sections). With samples of such modest size, naturally occurring variation in the make-up of a teacher's classroom from year to year will produce variation in a teacher's estimated effect. However, volatility in teacher (and school) effects exceeds that predicted by sampling error alone (Kane and Staiger, 2002; Kane, Rockoff, and Staiger, 2008). The source of this second type of error—which can perhaps more accurately be thought of as nonpersistent variation in estimates of teacher effects on student achievement—could include a broad range of factors influencing the measured achievement gains of groups of students: for example, interactions between a specific teacher's lesson plans and the test used in a given year, an (unpredictably) disruptive student that drags down his/her classmates, a dog barking in the parking lot on the day of the test, or more mysterious forces that fall under the broad category of "classroom chemistry."

For present purposes, any nonpersistent variation in a teacher's measured impact on student achievement represents estimation error. One approach to estimating the proportion of variance due to nonpersistent sources is to study the correlation in estimated impacts across classrooms taught by the same teacher. If a teacher's estimated impact, Y_t, represents the sum of a persistent component, μ, and an uncorrelated nonpersistent error, ε_t, then the correlation between the estimated effect this year and last year—that is, between Y_t and Y_{t-1}—represents an estimate of the reliability of the teacher-level estimate in any given year. Table 1 reports the standard deviation in estimated teacher effects, the estimated reliability (as measured by the correlation across classrooms taught by the same teacher), and implied standard deviation in true teacher impacts (σ_μ) for teachers in two school districts: Los Angeles Unified and New York City. When reported in terms of the student-level standard deviation in test scores in a given grade and subject, the standard deviation in estimated value added for teachers was remarkably similar in the two districts, with estimates in both math and English Language Arts in the

Table 1
Evidence on Teacher Value Added from Schools in Los Angeles and New York City
(*teacher value added measured in standard deviations of student performance*)

	Los Angeles		*New York City*	
	Math	*English Language Arts*	*Math*	*English Language Arts*
Variation in Teacher Value Added:				
Standard deviation of annual value-added measure	0.27	0.23	0.25	0.23
Reliability of annual value-added measure	0.50	0.37	0.39	0.28
Implied standard deviation of persistent teacher effect	0.19	0.14	0.15	0.12
Difference in Value Added Relative to Teachers with 3+ Years Experience:				
No experience teaching (novice)	−0.08	−0.06	−0.07	−0.07
One year of experience teaching	−0.02	−0.01	−0.03	−0.04
Two years of experience teaching	−0.01	−0.01	−0.02	−0.02

Notes: Teacher value-added estimates are from analysis of data on fourth and fifth graders in years 2000–2003 for Los Angeles and 2000–2005 for New York City. Teacher value added is measured in standard deviations of student performance. Reliability of the value-added measure refers to the correlation of the value-added measure across classrooms taught by the same teacher. Estimates are based on regressions of student achievement that include student-level controls for baseline test scores, race/ethnicity, special education, English Language Learners (ELL), and free lunch status; classroom peer means of the student-level characteristics; and grade-by-year fixed effects.

narrow range from .23 to .27. Although the estimated reliability of teacher effects was higher in math than in English Language Arts, and higher in Los Angeles than in New York City, all the reliability estimates suggest that there is considerable error or volatility in the teacher impact estimates. Indeed, more than half of the variation in estimated impacts in math and English Language Arts are nonpersistent. The standard deviation of the persistent teacher effect is between .12 and .19, similar to that found in the previous literature discussed above.

Fact 3: Teachers Improve Substantially in Their First Few Years on the Job.

Table 1 also reports the degree to which average teacher effects on student achievement differ from that of experienced teachers during the first few years on the job in these same two districts. In both Los Angeles and New York, teacher effects on student achievement appear to rise rapidly during the first several years on the job and then flatten out. This finding has been replicated in a number of states and districts (Rivkin, Hanushek, and Kain, 2005; Clotfelter, Ladd, and Vigdor, 2006; Harris and Sass, 2006; Jacob, 2007). When assigned to a first-year teacher, the average student gains .06 to .08 standard deviations of achievement less than observably similar students assigned to experienced teachers. However, the achievement gains of students assigned to second-year teachers lagged those in

more experienced teachers' classrooms by only .01 to .04 standard deviations. In Los Angeles, students of third-year teachers saw gains comparable to those of more experienced teachers, while there was a small difference for third-year teachers in New York (.01 to .02 standard deviations).

Fact 4: The Main Cost of Teacher Turnover is the Reduction in Student Achievement when an Experienced Teacher is Replaced by a Novice, not Direct Hiring Costs.

Milanowski and Odden (2007) carefully studied costs of teacher recruitment and hiring in a large urban Midwestern school district. They estimate total costs of roughly $8,200: recruiting costs per vacancy of $1,100 in central office staff time and $2,600 in school-level staff time, plus $4,500 for the cost of training a new teacher. In addition, some of these costs will be defrayed by the salaries earned by new teachers, which are typically lower than the salaries of the teachers they replace.

Based on the gains that teachers make in their first few years of experience, every time a school district loses an experienced teacher with two or more years of experience and is forced to hire a novice teacher, the students assigned to the novice teacher over the first two years of their career lose roughly .10 standard deviations in student achievement. As discussed above, estimates suggest a .10 standard deviation gain in math scores has a value of roughly $10,000 to $25,000 per student. Thus, the economic cost of lost academic achievement when replacing an experienced elementary teacher with a novice would be roughly $10,000 to $25,000 times 20 students per class—or $200,000 to $500,000. This is obviously a back-of-the-envelope calculation, but it dwarfs the direct costs of teacher hiring.

Fact 5: School Leaders Have Very Little Ability to Select Effective Teachers During the Initial Hiring Process.

Reliable screening at the hiring stage would be an efficient tool for raising student achievement because it avoids the cost of placing ineffective teachers in front of students. Unfortunately, there is scant evidence that school districts or principals can effectively separate effective and ineffective teachers when they make hiring decisions. Indeed, this notion is supported by the fact that most of the variation in teacher effects occurs among teachers hired into the same school.

One of the most interesting pieces of evidence on this topic comes from a natural experiment that occurred in California in the late 1990s (Kane and Staiger, 2005). Beginning in the academic year 1996–1997, the state of California provided cash incentives to school districts to keep class sizes in kindergarten through third grade to a maximum of 20 children. To take advantage of the state incentive, school districts throughout the state dramatically increased hiring of new elementary teachers. In the years before 1997, the Los Angeles Unified School District hired 1,200 to 1,400 elementary school teachers per year, but in 1997 Los Angeles nearly *tripled* the number of elementary school teachers it hired, to 3,335, and continued to hire at more than double its earlier level for the next five years.

If the district were able to discern teacher effectiveness in the hiring process, we would have expected a large increase in hiring to have had a negative effect on the average effectiveness of the teachers hired. Such an effect would likely have been heightened by the fact that nearly every other school district in California was on a hiring spree because of the same state law, the fact that teacher compensation in Los Angeles did not increase more than usual during this period, and that the proportion of new hires in L.A. without teaching credentials rose from 59 percent to 72 percent.[5] However, Kane and Staiger (2005) find that, despite the size of the hiring bubble, value added in the period 2001–2004 for teachers hired in 1997 was no worse than for teachers hired in the years immediately before 1997.[6] Overall, there was no evidence that tripling the number of new hires had any effect on their average effectiveness in the classroom. [7]

Other evidence on this issue comes from decades of work in which researchers have tried, unsuccessfully, to link teacher characteristics observable to both researchers and principals to student outcomes (see reviews by Hanushek, 1986, 1997; Jacob, 2007). With the exception of teaching experience, there is little to suggest that the credentials commonly used to determine teacher certification and pay are related to teachers' impacts on student outcomes. Some studies find that a teacher's academic background (like college grade point average or SAT test scores) is related to student outcomes, but Ballou (1996) finds that teaching applicants with strong academic records are no more likely to be hired by school principals.

More recent work suggests that selecting teaching candidates who are likely to be effective is difficult, but not impossible. For example, several studies have estimated the effect of novice teachers recruited under the Teach for America program (Decker, Mayer, and Glazerman, 2004; Boyd, Grossman, Lankford, Loeb, and Wyckoff, 2006; Kane, Rockoff, and Staiger, 2008). Teach for America is highly selective, drawing applicants from the top universities in the country and offering positions to only a small fraction of the thousands of individuals who apply. However, these applicants have not generally taken college courses in K–12 education nor have they majored in education. Decker, Mayer, and Glazerman (2004) use random assignment to estimate the effect of the program in elementary schools and find that students assigned to Teach For America members scored 2 percentile

[5] It may seem surprising that the fraction of teachers without credentials didn't rise by more, but the number of individuals with teaching certification that do not teach is quite large. Data from the Baccalaureate and Beyond study indicate that roughly one in five college graduates receive teaching certification in the ten years after graduation, but 45 percent of college graduates that obtained teaching certification are not teaching, and 15 percent have *never* taught (author's calculations using National Center for Education Statistics QuickStats on 6/8/2010).

[6] Their analysis focuses on grades two through five in Los Angeles from 2001 through 2004. By 2001, roughly two-thirds of both the 1996 and 1997 hiring cohorts were still employed by the district; thus, there is little evidence to suggest any differential selective attrition for the larger cohort. Also, while their value-added model controls for baseline scores and other student characteristics, there was virtually no difference in the types of students to which the cohorts had been assigned.

[7] This evidence runs counter to the prevailing wisdom among some policy analysts that it was a decline in the average quality of the teaching force that accounts for the failure to see an increase in achievement in California resulting from the class size reduction (Bohrnstedt and Stecher, 2002).

points (0.095 standard deviations) higher in math and no higher in reading than those assigned to other teachers. Using nonexperimental data from New York City, in Kane, Rockoff, and Staiger (2008), we find positive effects of Teach For America teachers in math of .02 standard deviations and no statistically significant effect in English Language Arts. Boyd, Grossman, Lankford, Loeb, and Wyckoff (2006) report comparable results, also using data from New York City.

More evidence comes from studies collecting data on recently-hired novice math teachers in New York City. In Rockoff, Jacob, Kane, and Staiger (forthcoming), we collected information on a number of nontraditional predictors of effectiveness—including teaching-specific content knowledge, cognitive ability, personality traits, feelings of self-efficacy, and scores on a commercially available teacher selection instrument—and then used these to predict a teacher's effect on math achievement. When the variables were combined into two primary factors summarizing cognitive and noncognitive skills, teachers who were one standard deviation higher on either the cognitive or noncognitive factor were found to raise student achievement in math by .033 student-level standard deviations more than teachers with average skill levels. Those who were one standard deviation higher on both measures were estimated to raise achievement by .066 standard deviations. Rockoff and Speroni (2010) examined the achievement of students assigned to teachers recruited through an alternative certification program—the New York City Teaching Fellows—and asked whether achievement gains were higher for students assigned to teachers rated as more attractive candidates by the certification program's interview protocol. They found no significant relationship with English Language Arts test scores and a small positive relationship with math test scores: a one standard deviation in interview score was associated with .013 standard deviations higher math achievement gain.

Implications for How We Should (and Should Not) Search for Effective Teachers

Here, we first lay out a way of thinking about the appropriate search strategy for school leaders based on these empirical findings. Based on this approach, we then present simulation estimates of how these different strategies would affect average teacher productivity.

A Reservation Value or Cut-off Score Model

Suppose that school districts do not observe any useful pre-hire signal—there are a substantial number of potential applicants for teaching jobs who appear to have the general skill level to succeed in teaching, but we cannot tell in advance which ones will actually succeed. However, after teachers accept a job, the school can observe the gains that students make in test scores. Thus, the principal faces a search problem: the principal draws teachers from the applicant pool, observes noisy signals over time about teacher productivity, and decides whether to dismiss

unproductive teachers and start the process over again. In this kind of model, the optimal decision rule has a reservation property: at the end of a year, the principal makes a decision on whether to dismiss a teacher if the expected effectiveness of that teacher, given the information to date, lies below a reservation value.[8]

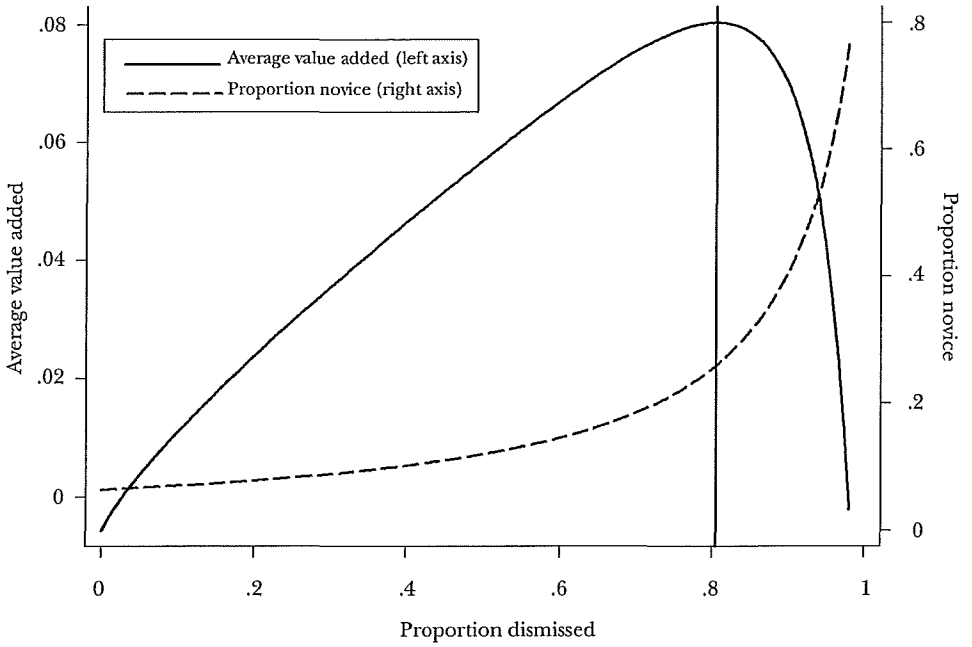
At a broad level, the principal should set the cut-off score where the productivity of the *marginal* teacher is expected to be equal to the productivity of the *average* teacher. In other words, this decision rule tells principals to keep only the rookies who are expected to be better than the average teacher. Imagine if this were not true—that is, suppose the marginal teacher were less productive than the average teacher. Then the school district could raise average performance by raising its standard for new hires by a small amount. Likewise, if the marginal teacher accepted under the standard were more productive than the average teacher, then the district could raise average performance by lowering the cut-off score for new hires and adding one more above-average teacher. This result is analogous to the usual result that average costs are minimized at the point where marginal cost equals average cost.

However, determining the reservation value or cut-off score in practice will be complex. The optimal reservation value depends on a set of underlying parameters similar to those already discussed: the extent of variation in performance across teachers, the return to experience, the number of years before tenure, the exogenous turnover rate, the size of the applicant pool, and the magnitude of other hiring and firing costs. For example, if teachers are more heterogeneous, then the potential benefits of greater selection are higher. However, if there is more noise (and thus uncertainty) in the estimates of teacher heterogeneity, then the benefits of selection are lower. If the gains from teacher experience are worth more, then the cost of dismissing experienced teachers and replacing them with novices is larger. If the exogenous turnover rate of teachers is high, then the optimal cut-off for tenure falls because there is less benefit to giving tenure to highly effective teachers if they do not stay long. Overall, the principal must set the bar to trade off the short-term cost of replacing an experienced teacher with a rookie against the long-term benefit of selecting only the most effective teachers.

In what follows, we report the results of Monte Carlo simulations that examine the consequences of different approaches to teacher evaluation and retention. We use evidence on key underlying parameters to calibrate the model; all of these values lie in the middle of the estimates reported for Los Angeles and New York City in Table 1. We set the standard deviation of the persistent teacher effect (in student-level standard deviation units) equal to 0.15, and the reliability of the value-added measure (the ratio of the persistent variance to total variance) equal to 40 percent. For the return to experience, we assume that a first- and second-year teacher's value added is –0.07 and –0.02 student standard deviations below the value added of teachers in

[8] For a simple algebraic presentation of this model, with some discussion of its links to search models with imperfect information in labor markets, see the online appendix available with this paper at ⟨http://www.e-jep.org⟩.

Figure 1
Effect of Dismissing a Given Proportion of Novice Teachers Based on One Year of Data



Notes: Proportion dismissed (*x*-axis) refers to the proportion of teachers with the lowest value-added estimates that are dismissed after their first year. The solid line (and left axis) shows the steady state impact of each proportion dismissed on the value added of the average teacher, including those in their first year of teaching. Teacher value added is measured in standard deviations of student performance. The dashed line (and right axis) shows the steady state impact of each proportion dismissed on the proportion of the teacher workforce in the first (or novice) year of teaching.

their third year or higher. We ignore the direct costs of hiring a new teacher. Finally, we assume a maximum teaching career of 30 years and an exogenous turnover rate of 5 percent, which is approximately the proportion of experienced teachers who leave the Los Angeles and New York City districts each year.

Tenure or Dismiss after One Year

We begin with a basic example in which the principal must either dismiss or tenure a teacher after one year of teaching based on just one year of student value-added data. Figure 1 reports the expected steady-state impact of dismissing a given proportion of teachers (the bottom axis) on value added of the average teacher (left axis, solid line) and on the proportion of the teacher workforce who are in their first year of teaching (right axis, dashed line).

The implications of Figure 1 are stark. First, the simulation suggests there are substantial gains from using value-added information to dismiss ineffective teachers and that the principal should set a very high bar for tenure. To maximize

average value added, about 80 percent of teachers should be dismissed after their first year. This aggressive strategy would raise the average value added of teachers in the school to just over 0.08; put differently, the effectiveness of the average teacher (including the rookies) would be greater than roughly 70 percent of the tenured teachers under the old system. Moreover, it is not the case that most of the gain comes from dismissing the very lowest-performing teachers. Indeed, until the principal reaches the optimum, the gain to being increasingly selective in who receives tenure is roughly linear. For example, if the principal dismissed the 40 percent of first-year teachers with the lowest value added, rather than 80 percent, the average value added among teachers in the school would increase by roughly 0.045 in the long run.

While these results are surprising relative to current practice, there are a number of clear reasons why principals might choose to dismiss a large proportion of novice teachers. Even unreliable performance measures such as value added can identify substantial and lasting differences across teachers. Differences in teacher effects are large and persistent relative to the short-lived costs of hiring a new teacher. Since the typical teacher getting tenure will teach for ten years or more, the benefit from setting a high tenure bar will be large. Of course, such unreliable measures make mistakes. But the long-run cost of retaining an ineffective teacher far outweighs the short-run cost of dismissing an effective teacher. Moreover, because of the uncertainty at the time of hire, new teachers have considerable option value; for every five new hires, one will be identified as a highly effective teacher and provide many years of valuable service.

There are many reasons why these simulations could overstate the benefits or understate the costs of such an aggressive tenure policy, and we have tried to enumerate a number of them here. In general, for reasonable variations in the parameter values, these issues do not alter our qualitative conclusions.

First, we may have understated the hiring and firing costs facing a principal. As we discussed earlier, the main cost of turnover is the lower effectiveness of new teachers, which corresponds to a cost of well over $100,000 in terms of foregone future student earnings. However, even if we double the difference in value added between rookies and experienced teachers (that is, from 0.07 to .14 student level standard deviations), the optimal dismissal rate remains over 75 percent.

Second, we may have understated turnover rates among tenured teachers, especially if principals focus on their own school (rather than the district as a whole) and highly effective teachers are more likely to move to other schools. Similarly, principals may discount the future more highly because of their own likelihood of leaving the school, or because they believe that teacher effects will not persist into the future (although the evidence suggests otherwise). However, if we double the exogenous annual turnover rate from 5 to 10 percent, the optimal dismissal rate remains over 70 percent.

Third, we may have understated the cost of recruiting teachers. The simulation indicates that a dismissal rate of 80 percent would result in more than 20 percent of the workforce being novice teachers at any time, more than double the current proportion of novices in Los Angeles and New York City. Districts would have to

hire many more teachers to accommodate this strategy, and these new hires would presumably demand higher wages to compensate for the substantial risk of being dismissed. This is particularly true if we continue to require costly up-front teaching-specific training. However, even a doubling of current teacher salaries would not be enough to offset the benefits of an aggressive dismissal policy, since a .08 annual increase in student achievement is worth more than $100,000 per teacher.

Fourth, our simulations focus on the steady state, and we have ignored what happens along the way. This may be important if we discount the earnings of future children relative to current children. Specifically, for a school that starts with all new teachers, an aggressive dismissal policy will result in high fractions of inexperienced teachers in the short run even if the equilibrium percentage of rookies is lower. For example, if we compare a policy of retaining the top 20 percent of new teachers with retaining 90 percent, average teacher effectiveness would be slightly lower in the first two years after implementing the more aggressive policy, turn positive in year three, and approach the steady state gains after roughly ten years. Nevertheless, we find the optimal dismissal rate is still above 70 percent for annual discount rates in a reasonable range (say 2 to 8 percent), and falls to 50 percent only with annual discount rates on the order of 15 percent.

Fifth, there may be spillover effects in teaching, where good teachers help raise the achievement of their colleagues' students (Jackson and Bruegmann, 2009; Koedell, forthcoming). This has two offsetting effects in the context of our analysis. Spillover effects imply that our estimate of the variation in how teachers impact their *own* students is overstated (because some of the observed effect is due to their colleagues). However, if this bias is roughly 20 percent, as suggested by Jackson and Bruegmann (2009), so that the true standard deviation in persistent teacher effects was 0.12 rather than 0.15, the optimal dismissal rate would still be 79 percent in our model. Moreover, spillover effects will also increase the benefits of filling schools entirely with highly effective teachers and could easily imply higher optimal dismissal rates.

Sixth, we have assumed that teachers who do not receive tenure exit the teaching workforce. If teaching effectiveness is measured with error and principals have no power to screen among candidates, then dismissed teachers could move to another school and hope for better luck in their evaluation. If this occurred, the average quality of the applicant pool would decline. This type of phenomenon—poorly performing teachers moving to new schools, typically those serving more disadvantaged students (discussed in Boyd, Grossman, Lankford, Loeb, and Wyckoff, 2008)—is already well-known in education, and is referred to as "the dance of the lemons." This suggests that principals could benefit their colleagues at other schools by sharing performance information on teachers. However, if schools were highly selective in granting tenure, it might also be true that teachers who receive a bad signal regarding their effectiveness would have less incentive to "shop around."[9]

[9] A similar complication arises if teaching skills are partially related to subject matter, grade level, or the teacher–school match. The evidence on the specificity of teaching skill is mixed (Boyd, Grossman,

Seventh, there is evidence that the impact of a teacher on the achievement of current students may fade out over time as those students progress through their remaining years of school (Jacob, Lefgren, and Sims, 2008; Kane and Staiger, 2008). It is unclear whether this greatly weakens the case for raising teacher quality. We do not know whether fadeout is a general phenomenon or whether it is a result of current levels of heterogeneity in teacher effectiveness. For example, having a highly effective teacher in the previous year may do students little good if they are placed with a highly ineffective teacher this year, or if their classmates were placed with a highly ineffective teacher the previous year. In other words, teacher effects might not fade out if a group of students is given a sequence of highly effective teachers. Moreover, raising a student's academic achievement as measured in a particular grade may still be valuable even if the student's score in later grade levels do not remain at the improved level. For instance, a better knowledge of numerical operations may still be valuable in the labor market even if it does not lead to better test scores in algebra. Nevertheless, we do view "fade-out" as a primary empirical issue, not just in studies of teachers, but in studies of educational interventions more broadly (for example, Currie and Thomas, 1995).

Finally, we may have overstated the reliability of value-added measures. We address this issue in considerable detail below. However, even if we cut the reliability of value added in half (from 40 to 20 percent), the optimal dismissal rate remains over 70 percent.

The Effect of Changing the Time to Tenure Review

In our next set of simulations, we evaluate how changing the time until tenure review affects the optimal dismissal rate and the average value added of teachers. The first column of Table 2 repeats the results from our benchmark simulations in which dismissal could only occur at the end of the first year. The next three columns allow the principal to delay tenure review until the second, third, or fourth year, and to gather more information about teacher effectiveness before making a decision regarding dismissal. The next three columns *require* a delay in tenure review for 2 to 4 years, so that dismissal can occur only after multiple years of value-added data are available to the principal.

Not surprisingly, giving a principal the option of waiting to gather more information produces some benefits. Average value added rises to about 0.10 standard deviations with the possibility of delaying tenure review to the fourth year, with most of the gain coming from delaying tenure until the second year. Even with the option to delay the tenure decision, the principal would still dismiss two-thirds of

Lankford, Loeb, and Wyckoff, 2008; Lockwood and McCaffrey, 2009; Jackson, 2010), but it is reasonable to believe that, say, a mediocre teacher of high school physics in Harlem may have made a good fifth grade math teacher in Brooklyn Heights, or vice versa. If principals do have access to information on the past performance of teachers who did not make tenure, specificity in skill can simply be interpreted as an additional source of error. This may lead principals to be more willing to "take a chance" on a teacher who just missed tenure by trying them in a different subject, grade, or teaching environment.

Table 2
Effect of Delaying Tenure Decisions beyond the First Year, Options vs. Requirements

	Baseline: Dismissal at $T=1$	*Dismissal allowed at any time until*			*Require dismissal only occur at time*		
	$T=1$	$T=2$	$T=3$	$T=4$	$T=2$	$T=3$	$T=4$
Average value added	0.080	0.095	0.099	0.101	0.075	0.068	0.061
% Dismissed overall	81%	83%	84%	84%	75%	71%	68%
% Dismissed annually							
At $T=1$	81%	67%	67%	67%			
At $T=2$		16%	8%	8%	75%		
At $T=3$			9%	4%		71%	
At $T=4$				5%			68%

Notes: Average value added refers to the average level of teachers' value-added estimates in the steady state under an optimal dismissal policy, and it includes both untenured and tenured teachers. (Teacher value added is measured in standard deviations of student performance.) "Percentages dismissed" refers to the percent of a single cohort of newly hired teachers dismissed during years leading up to when a tenure decision is required (year T).

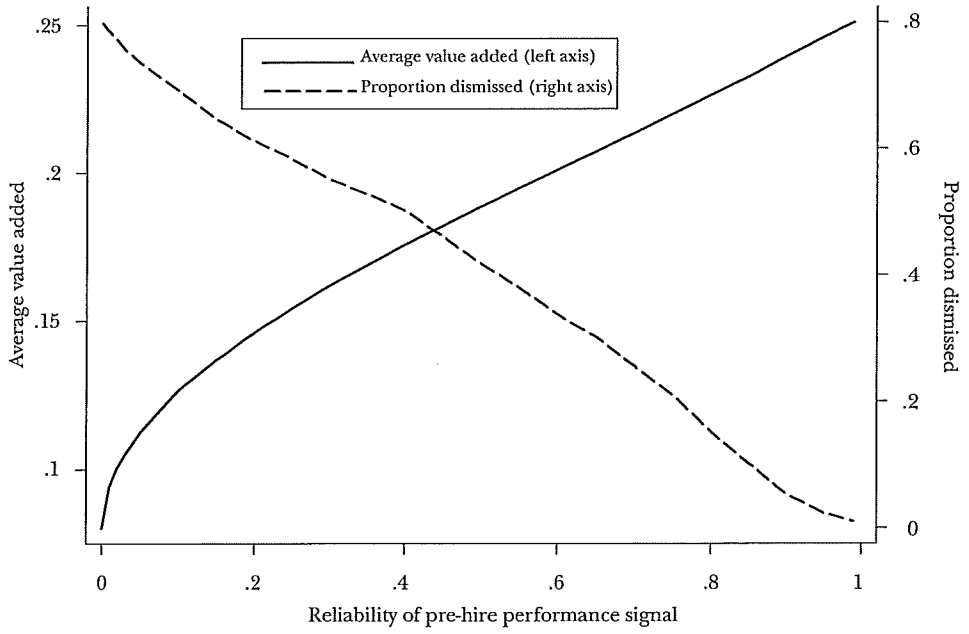
new hires after the first year, but would wait to dismiss some teachers for whom there is a reasonable chance that an additional year of data could lead to a better decision. Intuitively, the cut-off score for dismissing a new teacher rises with time on the job, because the option value of waiting to dismiss a teacher declines as the principal accumulates better information. In other words, to avoid unnecessary turnover the principal may choose to wait a year before dismissing a teacher who the principal believes is "below the bar" so long as there is a reasonable chance that this evaluation could change. Thus, the principal dismisses teachers whose expected effectiveness lies below a bar that increases with teacher experience. Overall dismissal rates do not change much as the principal is allowed to wait until year 2, 3, or 4 to make a decision, but the extra time allows the principal to better identify the remaining subset of teachers for tenure.

In contrast, *requiring* principals to delay tenure review—that is, removing the option of dismissal until year 2, 3, or 4—would lead to lower average teacher value added, relative to the baseline case. Essentially, this policy forces principals to retain low-performing teachers additional years, and this outweighs the benefits of the additional information the principal would obtain by waiting to see additional years of performance data. Note that this policy also leads to fewer teachers being dismissed overall, since the option value of hiring a new teacher (who may turn out to be ineffective and must be retained for several years) has fallen.

Obtaining More Reliable Information at the Time of Hire

We have assumed that principals have no useful information at the time of hire. This implies that radical increases in hiring rates (as required by a dismissal rate of 80 percent) do not affect the quality of new hires—each individual is a random

Figure 2
Effect of Increasing the Reliability of the Pre-hire Performance Signal on Value Added of Average Teacher and Proportion of Teachers Dismissed after One Year



Notes: Reliability (x-axis) refers to the proportion of variance in the pre-hire performance signal that is due to the persistent component of teacher performance. The solid line (and left axis) shows the steady state impact of reliability on the value added of the average teacher, including those in their first year of teaching, based on the optimal proportion of teachers dismissed after one year. (Teacher value added is measured in standard deviations of student performance.) The dashed line (and right axis) shows the steady state impact of reliability on the optimal proportion dismissed after one year.

draw from a generally qualified applicant pool. But many districts and principals put substantial effort into screening and interviewing new hires, suggesting that even small amounts of information at the time of hire may be valuable.

Figure 2 shows how changing the reliability of the pre-hire signal affects the optimal dismissal rate (right axis, dashed line), and the resulting value added of the average teacher in the school (left axis, solid line). For these simulations, we assumed that the principal could only dismiss teachers after the first year ($T = 1$). We also assumed that the pool of potential applicants was ten times the number needed to replace teachers leaving through exogenous turnover, corresponding to estimates that New York City and Los Angeles currently have about 10 applicants for each position. Our baseline simulation corresponds to a reliability of 0 in the pre-hire signal, at the far left in this figure.

Figure 2 suggests that pre-hire information on teacher effectiveness is potentially quite valuable. Compared to having no information at the time of hire, a

perfect pre-hire signal with 100 percent reliability would nearly triple the gain to the value added of the teacher workforce, and of course would eliminate the need to dismiss teachers after hire. More interestingly, even a low reliability signal of 20 percent at the time of hire doubles the gain to the value added of the teacher workforce relative to the benchmark case with no pre-hire information. However, access to a pre-hire signal does not eliminate the need to dismiss additional teachers after hire. As long as there is remaining uncertainty about teacher effectiveness among the teachers that are hired, there will be a benefit to dismissing additional teachers after observing classroom performance.

Obtaining More Reliable Measures of On-the-Job Performance

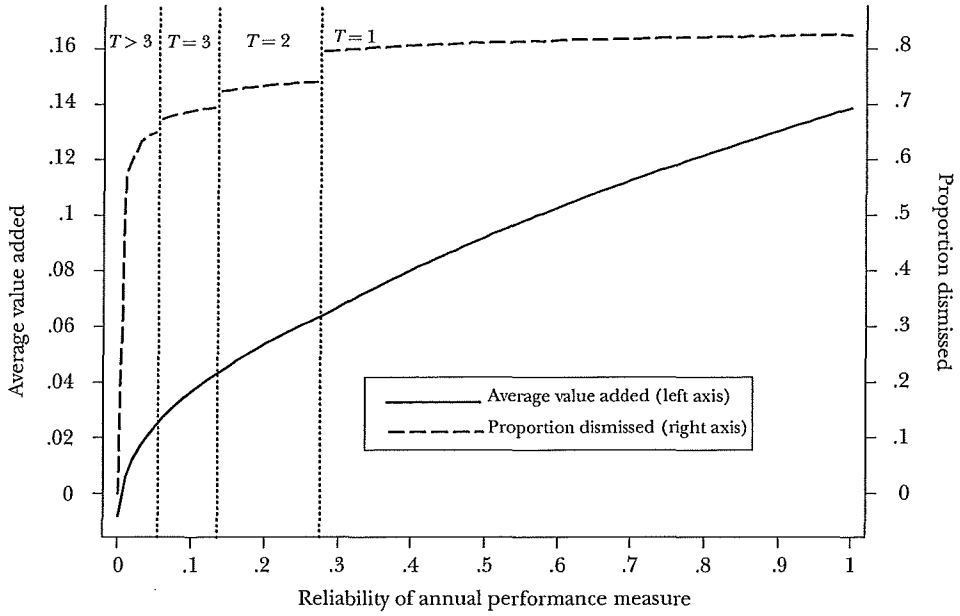
Figure 3 shows how changing the reliability of the on-the-job signal affects the optimal timing of tenure (regions delineated by dotted lines, labeled at top), the optimal dismissal rate (right axis, dashed line), and the resulting value added of the average teacher in the school (left axis, solid line). For these simulations, we assumed that the principal could only dismiss teachers at tenure time (T).

Many school districts are currently engaged in efforts to improve the reliability with which they can measure teacher performance, through the use of additional information from classroom observation, student work, and student or parent surveys. Figure 3 suggests that more reliable measures of teacher performance are quite valuable. Relative to our baseline simulation, in which reliability of the annual performance measure was 40 percent (.4 in the figure), a measure with perfect reliability would nearly double the gains from selecting effective teachers (to 0.14 standard deviations) while having little impact on the proportion of teachers dismissed. If districts relied on performance measures that were less reliable than our baseline case, the gains from selecting effective teachers would be reduced, and it would become optimal for the principal to wait longer before dismissing a teacher. Interestingly, the proportion of teachers dismissed does not decline much until the reliability of the performance measure drops below 5 percent (.05 in the figure). Even very weak signals of teacher performance eventually identify differences between teachers that make the benefits of selectively awarding tenure swamp the cost of having to hire additional inexperienced teachers.

Conclusion

In the ongoing debate over how to improve teaching quality in public schools, there have been conflicting claims regarding the usefulness of currently available measures of teacher effectiveness. For example, in reference to a proposed initiative to measure teacher effectiveness using student test scores, the head of the New York City teachers' union Randi Weingarten stated: "There is no way that any of this current data could actually, fairly, honestly or with any integrity be used to isolate the contributions of an individual teacher" (as reported by Medina, 2008). In contrast, the U.S. Secretary of Education Arne Duncan (2009) has stated: "I have an open mind

Figure 3
Effect of Reliability of the Annual Performance Measure on Optimal Timing of Tenure, Optimal Dismissal Rate, and Value Added of Average Teacher



Notes: Figure 3 shows how changing the reliability of the on-the-job signal affects the optimal timing of tenure (regions delineated by dotted lines, labeled at top), the optimal dismissal rate (right axis, dashed line), and the resulting value added of the average teacher in the school (left axis, solid line). For these simulations, we assumed that the principal could only dismiss teachers at tenure time (T). Reliability (x-axis) refers to the correlation of the annual performance measure across years within the same teacher. The dashed line (and right axis) shows the steady state impact of reliability on the proportion dismissed. The solid line (and left axis) shows the steady state impact of reliability on the value added of the average teacher, including those in their first year of teaching, based on the optimal proportion of teachers dismissed after the optimal waiting period (T). (Teacher value added is measured in standard deviations of student performance.) The regions separated by horizontal dotted lines denote the optimal year in which the tenure decision should be made (T) for different levels of reliability.

about teacher evaluation, but we need to find a way to measure classroom success and teacher effectiveness. Pretending that student outcomes are not part of the equation is like pretending that professional basketball has nothing to do with the score."

Given the available evidence, we have tried to evaluate systematically how school leaders should use the currently available but imperfect measures of teacher effectiveness to recruit, evaluate, and retain teachers. Our simulations suggest that using existing information on teacher performance to aggressively select teachers would yield substantial annual gains in academic achievement of around 0.08 student level standard deviations. These are comparable to the annual test score gains found in recent experimental evaluations of charter schools (Hoxby and Murarka, 2009; Abdulkadiroglu, Angrist, Dynarski, Kane, and Pathak, 2009)

and comparable to the estimated annual impact of reducing class size in early elementary grades found in Project STAR (Krueger, 1999). Our analysis also suggests that there are substantial returns to investing in better information about teacher effectiveness, both at the time of hire and in the first few years on the job. Other measures of teacher performance, such as evaluations based on classroom observations, may be very useful. Finally, there may be other uses of this information that we did not consider in our analysis, such as for performance-based pay or targeted professional development, which would yield even larger gains. Systematically exploring the potential gains from these other uses would be valuable.

There are many practical obstacles to implementing a policy that denies tenure to a large proportion of new teachers. First, large upfront investments in teaching credentials make very high rates of terminations hard to support in equilibrium. Given that there is little evidence that such credentials are related to teacher effectiveness, our results suggest that an aggressive dismissal policy should be complimented by an easy entry policy. For example, as an alternative to obtaining credentials, districts could create an alternative port of entry in which any college graduate (without a criminal record) could become certified if they performed well on the job in their first year or two. One could imagine such an alternative certification route being an attractive option for many applicants, and the teachers obtaining the resulting certification being highly valued by schools. If applicants were still uneasy about investing time and effort in the difficult first years of teaching, districts could redesign the process to limit the up-front costs of a "tryout" (for example, initially evaluating new teachers using brief summer school courses), and allow them to gain better pre-hire information at low cost. Similarly, it is interesting to consider a workforce development model that tries both to minimize the exposure of students to untested teachers and generate early-career information on teacher effectiveness. For example, instead of giving new teachers a full load of students and/or courses, principals could assign them to a small group of students or a single course and then use this limited teaching role to collect performance information.[10] Of course, we do not know how reliably such information would predict later performance with a full set of teaching responsibilities, but we suspect it would be more informative than knowing where someone attended college or what they scored on a standardized certification examination.

Despite these issues and obstacles, the general message of our analysis remains. The current system, which focuses on credentials at the time of hire and grants tenure as a matter of course, is at odds with decades of evidence on teacher effectiveness. Instead, teacher recruitment and retention policies should focus on improving our methods of teacher evaluation and use admittedly imperfect measures of teacher effectiveness to identify and retain only the best teachers early in their teaching careers.

[10]Just five percent of recently hired teachers claim to have received a reduced workload in the first year of their careers according to the 2003 School and Staffing Survey.

■ *We thank Thomas Kane, Robert Gibbons, Brian Jacob, Bentley Macleod, Richard Murnane, conference participants at Columbia and the University of Chicago, and the editors of this journal for many useful comments and suggestions. Financial support for Doug Staiger was provided by Institute of Education Sciences, U.S. Department of Education grant #R305C090023.*

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COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1246-01
Bill No.: HB 631
Subject: Teachers; Education, Elementary and Secondary; Boards, Commissions, Committees, Councils
Type: Original
Date: February 26, 2013

Bill Summary: This proposal modifies provisions relating to the employment and evaluation of teachers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☐ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	**$0**	**(Could exceed $100,000)**	**$0**

FISCAL ANALYSIS

ASSUMPTION

A preliminary response from the **Department of Elementary and Secondary Education (DESE)** indicated there should not be significant costs to DESE as a result of this proposed legislation. DESE assumes there may be some costs to school districts to implement the provisions of the proposal.

Officials from the **Kansas City Public School District (KCPSD)** do not see substantial unfunded mandates for KC Public Schools within the text of the proposed legislation. KCPSD currently evaluates staff and provides teachers and principals with professional training and improvement plans when they believe it is warranted. Some added costs may be required to educate staff on the details of the law if passed.

KCPSD assumes districts that do not currently provide training and improvement plans may incur substantial costs implementing this law if passed, in that they would have to develop systems and programs to facilitate the mandate.

Oversight assumes there could be implementation costs to school districts. Oversight assumes provisions of the proposal will not be in place until the 2014-2015 school year and will show implementation costs to the school districts in FY 2015.

FISCAL IMPACT - State Government	FY 2014 (10 Mo.)	FY 2015	FY 2016
	$0	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2014 (10 Mo.)	FY 2015	FY 2016
LOCAL POLITICAL SUBDIVISIONS			
Costs - Local School Districts - Implementation of teacher employment and evaluation procedures	$0	(Could exceed $100,000)	$0
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**$0**	**(Could exceed $100,000)**	**$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal modifies provisions relating to the employment and evaluation of teachers.

A district shall not adopt or implement policies that permit length of service to serve as the primary factor when conducting layoffs or a reduction in force. A district instead shall utilize the results of

annual evaluation, as prescribed in the bill, as the primary factor when conducting a reduction in force. The evaluation system shall include performance reviews to provide feedback to teachers and shall include summative evaluations.

Each local school district shall establish and implement a local evaluation system for teachers and principals centered on student achievement.

A teacher may be considered for a permanent appointment upon the successful completion of the probation period, but in no case shall permanent status be automatically granted. The criteria for granting a permanent appointment to a teacher shall include multiple measures for assessing a teacher's effectiveness, as outlined in the proposal.

Each local district shall develop guidelines for professional improvement plans for teachers, principals, and administrators no later than the beginning of the 2014-2015 school year.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
School Districts
Kansas City Public School District

Ross Strope
Acting Director
February 26, 2013

Representative Stephen C. Cookson, **Missouri House of Representatives** provided information as a proponent of the proposal to the State Auditor's office.

Please accept this letter as a proposed statement of fiscal impact pursuant to Section 116.175, RSMo. I submit this letter to you as a proponent of the Teacher Tenure Initiative Petition submitted to the Secretary of State on March 15, 2013.

As a former educator, former superintendent and as Chairman for the House Elementary and Secondary Education Committee, I have become intimately familiar with the challenges facing our education system. I have seen first-hand the value of an effective teacher, and unfortunately, the cost of an ineffective teacher. I have experience with reviewing and studying the fiscal impact of issues affecting education at the state level, and experience creating, reviewing and monitoring school district budgets as a superintendent.

The Department of Elementary and Secondary Education is already in the process of increasing the number of student evaluations and reforming the educator evaluation system. This initiative petition changes the focus in our schools for teachers from seniority to effectiveness based on student achievement is a no cost step in the right direction. In fact, in my experiences, the changes required by this initiative petition could save school districts money in terms of reducing litigation costs for terminating teachers and all of the costs associated with an ineffective teacher. Certainly, the state will realize a benefit of an increase in effective teachers and a better educated future workforce.

The State Auditor's office did not receive a response from the **Department of Revenue,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Linn State Technical College,** and **St. Louis Community College.**

Fiscal Note Summary

Decisions by school districts regarding provisions allowed or required by this proposal and their implementation will influence the potential costs or savings impacting each district. Significant potential costs may be incurred by the state and/or the districts if new/additional evaluation instruments must be developed to satisfy the proposal's performance evaluation requirements.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-026)

Subject

Initiative petition from Mark Reading regarding a proposed constitutional amendment to Article I. (Received April 1, 2013)

Date

April 19, 2013

Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Mark R. Reading provided information as a proponent of the proposal to the State Auditor's office.

Marc H. Ellinger and Bryan T. Pratt on behalf of Opponents to the Proposed Measure provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any local political subdivision adopting a cigarette tax pursuant to the terms of the proposal would be responsible for its enforcement. Based on that assumption, they assume any potential costs resulting from the proposal could be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of this initiative petition.

Officials from the **Department of Elementary and Secondary Education** indicated they assume this initiative will have no cost on their agency. The initiative appears to give local voters the right to set and control local tobacco taxes which they have not previously had the authority to control. Therefore, there appears to be a potential at the local level for modified revenue. Any impact would depend upon the actions of local voters and cannot be estimated.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Social Services** indicated:

If approved by the voters in a statewide election, this initiative petition would grant local voters the right to determine and approve local tobacco taxes in cities and counties. Any local tobacco tax approved by local voters under this initiative can be used only for local

health care, local public education, or local job creation. A local tobacco tax measure can be submitted to local voters by the local governing body; by local initiative petition where such procedures exist; or if no such procedures exist in that city or county, by a petition signed by 5% of the qualified voters of the city or county.

All existing local tobacco taxes in place on the effective date of this initiative shall remain in effect unless modified with the approval of local voters.

The adoption of local tobacco taxes will not create any additional revenue for their department because the tax is collected and the use of the proceeds from the tax is controlled at the local level.

Officials from the **Governor's office** indicated there should be no added costs or savings to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal has no impact on their office. This proposal has no direct impact on total state revenues, but may have an unknown indirect impact if statewide tobacco sales are reduced as a result of increased local tobacco taxes.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing

requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated they do not anticipate any fiscal impact unless, of course, either the City Council or local citizens bring a new tax question forward. They have a local "occupation license tax" of $0.10 per package for all cigarettes sold, offered or displayed for sale. The intent of their ordinance is to levy a license tax pursuant to Sec. 166 of the City Charter and Sec. 94.110, RSMo. They expect this would stay in effect.

Officials from the **City of Jefferson** indicated they expect no direct fiscal impact if this bill would become law. The effects of the voters approved a tax thereafter are not now known.

Officials from the **City of St. Joseph** indicated there would be no immediate impact on their city.

Officials from the **Cape Girardeau 63 School District** indicated they are unaware if there is any cost or savings from this petition.

Officials from **Metropolitan Community College** indicated this would have no direct fiscal impact on their college.

Mark R. Reading provided the following information as a proponent of this initiative petition.

Proposed Statement of Fiscal Impact
for Voters' Right to Determine and Approve Local Tobacco Taxes
Version 3 (Bill of Rights)

Fiscal Impact Information Submitted Pursuant to Section 23.140.2

The cost of the proposed amendment to the state for the next two fiscal years is zero. The proposal has no fiscal impact on state funds because the proposal requires nothing from state government.

Further, the proposal has no fiscal impact on local funds because it is a "local voter control" measure that includes no mandate. It requires nothing of local governments.

ESTIMATED NET EFFECT ON STATE FUNDS		
Fund Affected	**FY 2014**	**FY 2015**
General Revenue	$0	$0
Total Estimated Net Effect on All State Funds	**$0**	**$0**
ESTIMATED NET EFFECT ON LOCAL FUNDS		
Local Funds	$0	$0
Total Estimated Net Effect on All Local Funds	**$0**	**$0**

Legislative fiscal notes for similar "local voter control" measures are highly instructive on the fiscal impact of this proposal. As detailed in the analysis set out in below, all 103 examples of legislative fiscal notes for bills empowering local voters to decide an issue received "zero cost" fiscal notes.

Fiscal Summary Recommendation

Based on the analysis of the measure set forth above and the review below of the practices of the Missouri General Assembly over the past six years in universally finding "zero" state and local fiscal impact for proposals that empower local voters to decide local issues, it is requested and recommend that the State Auditor's Office use the following language for its fiscal note summary:

"This proposal will give voters the right to approve local tobacco taxes in their cities and counties. There is no cost to state or local government"

ANALYSIS OF FISCAL IMPACT OF RECENT LOCAL VOTER CONTROL LEGISLATION

The analysis contained in this document was conducted to determine how the Missouri General Assembly has evaluated the cost in the fiscal notes of legislation that empower local voters to decide local issues.

The online records for the past six years (2007-2012) of the General Assembly have been searched to identify all applicable examples. A detailed electronic spreadsheet is attached to this analysis:

- Missouri General Assembly - 103 applicable bills and joint resolutions over the past six years have been identified. The attached electronic spreadsheet provides information on the session year, bill number, whether the bill was finally passed, the purpose, cost, and the Oversight Division's comment about the cost. In addition, internet hyperlinks have been provided to enable any reviewer to find the fiscal note, bill text, and bill summary for the pieces of legislation.

Analysis of Missouri General Assembly Fiscal Notes

A total of 103 bills and joint resolutions have been identified that analyze the fiscal impact of empowering local voters to decide local issues. .

Bills and Joint Resolutions Empowering Local Votes

Year of Session	House	Senate	Total
2012	14	4	18
2011	10	5	15
2010	2	17	19
2009	3	14	17
2008	8	6	14
2007	10	10	20
Total	47	56	103

Many of the bills were introduced as single subject pieces of legislation. The General Assembly often grouped similar pieces of single subject legislation into an omnibus bill that was then moved forward out of committee to the floor for action by the House or Senate. A total of 16 bills were passed by the General Assembly over the past six years that empower local voters to decide local issues. These bills often were omnibus bills that included provisions that had been included in bills filed in previous sessions.

	Bills passed
2012	1
2011	3
2010	5
2009	0
2008	1
2007	6
Total	16

The 103 bills contain a wide variety of topics and also a wide variety of local taxes that would be authorized for a local vote to fund the purposes of the bills. In addition, a long list of cities and counties of all sizes have been included in the 103 bills. Examples of the topics include but are not limited to the following:

- Transient guest taxes for a variety of purposes in many jurisdictions, including but not limited to:

  - ✓ Cities of St. Peters, Jefferson City, Sugar Creek, Waynesville, Grandview, North Kansas City, St. Joseph, Van Buren, Raytown, St. Ann, Ashland, Sullivan, Centralia, Excelsior Springs, Kimberling City, Charleston, St Charles, Gladstone, Augusta, Carrollton, Chillicothe, Liberty, Miami, Missouri City, Hollister, and Pleasant Hill.

  - ✓ Counties of Montgomery, Pettis, Ripley, Buchanan, Cass, St. Louis, Franklin, Perry, Pemiscot, and Pulaski.

- Sales taxes -
  - ✓ Libraries - Butler, Ripley, Wayne, Stoddard, New Madrid, Dunklin, Pemiscot, Audrain, Adair, Clark, Clay, Knox, Lewis, Marion, Monroe, Pike, Putnam, Ralls, Schuyler, Scotland, and Shelby
  - ✓ Public Safety - St. Joseph, Peculiar, Kansas City, Grandview, Harrisonville
  - ✓ Port Improvement Districts
  - ✓ Ambulance Districts
  - ✓ Fire Protection Districts
  - ✓ Promote tourism
  - ✓ Senior services and youth programs
  - ✓ Public health and safety projects and programs of the county public health center

- Property taxes -
  - ✓ KC Zoological District
  - ✓ Cemetery maintenance
  - ✓ Ambulance Districts
  - ✓ Exhibition center and recreational facility districts
  - ✓ Multipurpose conference and convention center

- ✓ Establishment, operation, and maintenance of an emergency communications system
- ✓ Special road rock fund tax on agricultural and horticultural property
- ✓ Construction, operation and maintenance of a community health center

- Fees
  - ✓ For homeless person assistance
  - ✓ Water service fees for enforcement of property maintenance
  - ✓ Water service fees for repair/replacement of water lines

While there is a wide variety of taxes and purposes included in the bills, there is a single conclusion used by the Oversight Division regarding the cost of empowering local voters to decide local issues - no fiscal impact.

Conclusion

The Missouri General Assembly clearly states in its fiscal analysis that bills empowering local voters to decide local issues has no fiscal impact. This is true for all of the 103 bills in this analysis over a six year period. The bills are permissive in nature and simply enable local voters to decide if they wish to address local issues.

Accordingly, the following fiscal summary is suggested:

"This proposal will give voters the right to determine and approve local tobacco taxes in their cities and counties. There is no cost to state or local government"

LEGISLATION WITH LOCAL ELECTIONS - 2007 to 2012

Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2012	HB 1056	Lant	No	This bill authorizes the governing body of McDonald County to impose, upon voter approval, a surcharge of 3% on the rental of rafts and tubes and the daily rental of rooms or accommodations in hotels, motels, cabins, campsites, or campgrounds for the purpose of offsetting the costs of providing emergency services within the county.	$0	Oversight assumes this proposal is permissive in nature to McDonald County. First the county government must impose, by order or ordinance, the surcharge and then voters of the county must approve the surcharge.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/4253-01N.ORG.htm	http://house.mo.gov/billtracking/bills121/biltxt/intro/HB1056I.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB1056I.htm
2012	HB 1114	Weter	No	This bill requires Taney County, upon voter approval of a county sales tax for central dispatching of emergency services, to appoint a seven-member emergency services board including the county sheriff and at least one member from the head of any of the county's fire protection districts, the county's ambulance districts, the police departments in the county, and the county's emergency management organizations, or their respective designees, to administer the funds and oversee the provision of emergency services.	$0	Oversight assumes this proposal is permissive in nature to Taney County. First the county government may impose, by order or ordinance, the tax and then voters of the county may approve the tax.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/4731-02P.ORG.htm	http://house.mo.gov/billtracking/bills121/biltxt/perf/HB1114P.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/perf/sHB1114P.htm
2012	HB 1143	Gatschenberger	No	This bill authorizes any city, town, village, sewer district, or water supply district to impose, upon voter approval, a fee of up to $4 per month or $48 annually for each lateral sewer service line providing sewer service to a residential property having four or fewer dwelling units for the purpose of repair or replacement due to failure of the lateral sewer service lines extending from the residential dwelling to its connection with the public sewer system. The fee may be added to the general tax levy bill of the property owner and collected in the same manner as delinquent real estate taxes and tax bills.	$0	Oversight assumes this proposal is permissive in nature and would have no local fiscal impact without action by the governing body ad approved by a majority of voters. Oversight will reflect a $0 or Unknown impact to Local Political Subdivisions starting in FY 2014.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/4624-01N.ORG.htm	http://house.mo.gov/billtracking/bills121/biltxt/intro/HB1143I.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB1143I.htm
2012	HB 1255	Lant	No	This bill authorizes McDonald County to impose, upon voter approval, a surcharge equal to 3% on the rental of canoes, kayaks, rafts, and tubes and on hotel and motel rooms, cabins, campsites, and campgrounds for the purpose of offsetting the costs of providing emergency services within the county. All revenue must be deposited into the newly created County Emergency Services Surcharge Fund.	$0	Oversight assumes this proposal is permissive in nature to McDonald County. First the county government must impose, by order or ordinance, the surcharge and then voters of the county must approve the surcharge.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/5172-01N.ORG.htm	http://house.mo.gov/billtracking/bills121/biltxt/intro/HB1255I.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB1255I.htm
2012	HB 1358	Gatschenberger	No	Omnibus bill that includes authorizing any city, town, village, sewer district, or water supply district to impose, upon voter approval, a fee of up to $4 per month or $48 annually for each lateral sewer service line providing sewer service to a residential property having four or fewer dwelling units for the purpose of repair or replacement due to failure of the lateral sewer service lines extending from the residential dwelling to its connection with the public sewer system and North Kansas City to impose a sales tax, upon voter approval, for public safety.	$0	No fiscal impact noted	http://www.moga.mo.gov/Oversight/OVER12/fishtm/5325-05N.ORG.htm	http://www.house.mo.gov/billtracking/bills121/biltxt/commit/HB1358C.htm	http://www.house.mo.gov/content.aspx?info=/bills121/bilsum/commit/sHB1358C.htm
2012	HB 1397	Gatschenberger	No	Omnibus bill that includes provisions authorizing the governing body of Carter County to impose, upon voter approval, a transient guest tax and North Kansas City to impose a sales tax, upon voter approval, for public safety	$0	Oversight assumes no fiscal impact.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/5324-04N.ORG.htm	http://www.house.mo.gov/billtracking/bills121/biltxt/commit/HB1397C.htm	http://www.house.mo.gov/content.aspx?info=/bills121/bilsum/commit/sHB1397C.htm

LEGISLATION WITH LOCAL ELECTIONS - 2007 to 2012

Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2012	HB 1504	Richardson	Yes	Omnibus bill including: Upon approval of the voters of the county with the largest population within the St. Louis Metropolitan Park and Recreation District and at least one other county in the district, the governing body of any county located within the metropolitan district as of January 1, 2012, is authorized to impose by ordinance an incremental sales tax of up to three-sixteenths of one cent on all retail sales subject to taxation, except on the sale of food and prescription drugs, for the purpose of funding the operation and maintenance of the district; City of Pevely levy transient guest tax upon voter approval for tourism; Jackson County sales tax upon voter approval for parks/greenways; Kansas City transient guest tax upon voter approval for tourism; Pemiscot Library sales tax for library purposes.	$0	No fiscal impact noted	http://www.moga.mo.gov/Oversight/OVER12/fishtm/5509-03T.ORG.htm	http://house.mo.gov/billtracking/bills121/biltxt/truly/HB1504T.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/truly/sHB1504T.htm
2012	HB 1536	Burlison	No	Upon voter approval, this bill authorizes any political subdivision by resolution to replace the personal property tax levied for funding the political subdivision with a revenue-neutral increase in either the local sales tax or real property tax.	N/A		Not available online on 12/6/12	http://www.house.mo.gov/billtracking/bills121/biltxt/intro/HB1536I.htm	http://www.house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB1536I.htm
2012	HB 1573	Schneider (17)	No	Omnibus bill that includes provision authorizing any city, town, village, sewer district, or water supply district to impose, upon voter approval, a fee of up to $4 per month or $48 annually for each lateral sewer service line providing sewer service to residential property having four or fewer dwelling units for the purpose of repair or replacement due to failure of the lateral sewer service lines extending from the residential dwelling to its connection with the public sewer system (Section 67.313).	$0	Oversight assumes that most provisions contained in this proposal are discretionary and would have no local fiscal impact without action by the governing body.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/5399-01N.ORG.htm	http://www.house.mo.gov/billtracking/bills121/biltxt/intro/HB1573I.htm	http://www.house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB1573I.htm
2012	HB 1586	White	No	This bill authorizes any public library district to impose, upon voter approval, a sales tax of up to one-half of one cent for the purpose of operating and maintaining public libraries within the library district. Currently, only public library districts located in certain counties are authorized to impose the tax.	N/A		Not available online on 12/6/12	http://house.mo.gov/billtracking/bills121/biltxt/intro/HB1586I.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB1586I.htm
2012	HB 1802	Swearigen	No	This bill authorizes the City of North Kansas City to impose, upon voter approval, a sales tax of up to .5% to fund public safety improvements including equipment, city employee salaries and benefits, and facilities for fire, police, and emergency medical providers.	N/A		Not available online on 12/6/13	http://house.mo.gov/billtracking/bills121/biltxt/intro/HB1802I.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB1802I.htm
2012	HB 1804	Molendorp	No	This bill authorizes the City of Kansas City to collect, upon voter approval, its existing convention and tourism tax from certain transient guests and patrons of food establishments who are otherwise exempt from the sales tax under Sections 144.010 to 144.510, RSMo.	$0	No fiscal impact noted	http://www.moga.mo.gov/Oversight/OVER12/fishtm/5793-01P.ORG.htm	http://house.mo.gov/billtracking/bills121/biltxt/perf/HB1804P.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/perf/sHB1804P.htm
2012	HB 1947	Gatschenberger	No	This bill authorizes any city, town, village, sewer district, or water supply district to impose, upon voter approval, a fee of up to $4 per month or $48 annually for each lateral sewer service line providing sewer service to a residential property having four or fewer dwelling units for the purpose of repair or replacement due to failure of the lateral sewer service lines extending from the residential dwelling to its connection with the public sewer system. The fee may be added to the general tax levy bill of the property owner and collected in the same manner as delinquent real estate taxes and tax bills.	$0	Oversight assumes this proposal is permissive in nature and would have no local fiscal impact without action by the governing body ad approved by a majority of voters. Oversight will reflect a $0 or Unknown impact to Local Political Subdivisions starting in FY 2014.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/6212-01N.ORG.htm	http://house.mo.gov/billtracking/bills121/biltxt/intro/HB1947I.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB1947I.htm

LEGISLATION WITH LOCAL ELECTIONS - 2007 to 2012

Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2012	HB 2032	Neth	No	This bill authorizes the governing body of the City of Liberty to impose, upon voter approval, a transient guest tax of up to 5% per room per night for the purpose of promoting tourism and cultural activities; the development, construction, and operation of convention facilities; promoting business development; and the construction of related infrastructure and improvements.	N/A		Not available online on 12/6/12	http://house.mo.gov/billtracking/bills121/biltxt/intro/HB2032I.htm	http://house.mo.gov/content.aspx?info=/bills121/bilsum/intro/sHB2032I.htm
2012	SB 465	Schaaf	No	This act adds Buchanan County and the cities, towns, or villages within Buchanan County to the list of governmental entities that are authorized to establish a Theater, Cultural Arts, and Entertainment taxing district upon voter approval.	$0	Oversight assumes the proposal is permissive in nature.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/4297-01N.ORG.htm	http://www.senate.mo.gov/12info/pdf-bill/intro/SB465.pdf	http://www.senate.mo.gov/12info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=44&BillID=44
2012	SB 781	Goodman	No	This act requires the Taney County Commission, upon voter approval of a county sales tax for central dispatching of emergency services, to appoint a seven-member board to administer the funds and oversee the provision of emergency services.	$0	No fiscal impact noted	http://www.moga.mo.gov/Oversight/OVER12/fishtm/4499-08N.ORG.htm	http://www.senate.mo.gov/12info/pdf-bill/hcs/SB781.pdf	http://www.senate.mo.gov/12info/BTS_Web/Bill.aspx?SessionType=R&BillID=1825631
2012	SB 887	Ridgway	No	This act authorizes North Kansas City to impose a sales tax up to one-half of one percent for improving public safety, upon approval of the voters.	N/A		Not available online on 12/6/12	http://www.senate.mo.gov/12info/pdf-bill/intro/SB887.pdf	http://www.senate.mo.gov/12info/BTS_Web/Bill.aspx?SessionType=R&BillID=3161443
2012	SB 912	McKenna	No	This act authorizes the city of Pevely to impose a transient guest tax, upon approval of the voters, to fund the promotion of tourism.	$0	Oversight assumes this proposal is discretionary and would have no local fiscal impact without action by the governing body.	http://www.moga.mo.gov/Oversight/OVER12/fishtm/6124-01N.ORG.htm	http://www.senate.mo.gov/12info/pdf-bill/intro/SB912.pdf	http://www.senate.mo.gov/12info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=3160346&BillID=3170495
2011	HB 142	Gatschenberger	Yes	This bill changes the laws regarding political subdivisions including allowing voter approval of fees for water service and enforcement of property maintenance.	$0	The fee must receive voter approval before it could be implemented; therefore, Oversight assumes this proposal is permissive and, by itself, would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/0720-04T.ORG.htm	http://www.house.mo.gov/billtracking/bills111/biltxt/truly/HB0142T.htm	http://www.house.mo.gov/content.aspx?info=/bills111/bilsum/truly/sHB142T.htm
2011	HB 161	Cox	Yes	Changes the laws regarding certain taxes imposed by political subdivisions including allowing voter approval for transient guest taxes in St. Peters and Pettis County, a library sales tax for six southeast MO counties, and a sales tax for public safety in St. Joseph	$0	Oversight assumes this proposal allows certain cities and counties to impose a transient guest tax of up to five percent for the promotion of tourism and for the funding of a convention and visitors bureau. This proposal would also allow the City of St. Peters to adopt a transient guest tax of up to two percent for the promotion of tourism. Oversight assumes the tax could not be implemented without voter approval and therefore, this proposal, would be permissive and would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/0781-05T.ORG.htm	http://www.house.mo.gov/billtracking/bills111/biltxt/truly/HB0161T.htm	http://www.house.mo.gov/content.aspx?info=/bills111/bilsum/truly/sHB161T.htm
2011	HB 298	Fitzwater	No	This bill authorizes the governing body of any hospital district in Iron County to impose, upon voter approval, a local sales tax of up to 1% in lieu of a property tax to fund the hospital district.	$0	Oversight assumes this proposal is permissive and, by itself, would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/0960-01N.ORG.htm	http://house.mo.gov/billtracking/bills111/biltxt/intro/HB0298I.htm	http://house.mo.gov/content.aspx?info=/bills111/bilsum/intro/sHB298I.htm
2011	HB 369	Gatschenberger	No	Authorizes any city, town, or village to impose, upon voter approval, a fee for the repair or replacement of water lines due to failure	$0	Oversight assumes this proposal is discretionary and would have no local fiscal impact without action by the governing body.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/1227-02P.ORG.htm	http://www.house.mo.gov/billtracking/bills111/biltxt/perf/HB0369P.htm	http://www.house.mo.gov/content.aspx?info=/bills111/bilsum/perf/sHB369P.htm

LEGISLATION WITH LOCAL ELECTIONS - 2007 to 2012

Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2011	HB 416	Richardson	No	This bill authorizes a public library district located at least partially in the counties of Butler, Dunklin, New Madrid, Pemiscot, Ripley, Stoddard, or Wayne to impose, upon voter approval, a sales tax of up to one-half of one cent for the operation and maintenance of public libraries within the district.	$0	Oversight assumes this proposal is discretionary and would have no local fiscal impact without action by the governing body.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/1281-01N.ORG.htm	http://house.mo.gov/billtracking/bills111/biltxt/intro/HB0416I.htm	http://house.mo.gov/content.aspx?info=/bills111/bilsum/intro/sHB416I.htm
2011	HB 542	Bernskoetter	No	This bill authorizes any ambulance district established under Chapter 190, RSMo, on or after August 28, 2011, to impose, upon voter approval, a sales tax of up to 0.5% in lieu of a property tax to fund the district. A petition to establish an ambulance district must state whether it will be funded by a property or sales tax.	$0	Oversight assumes this proposal is discretionary and would have no local fiscal impact without action by the governing body.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/1436-01N.ORG.htm	http://house.mo.gov/billtracking/bills111/biltxt/intro/HB0542I.htm	http://house.mo.gov/content.aspx?info=/bills111/bilsum/intro/sHB542I.htm
2011	HB 824	Cookson	No	This bill authorizes the governing body of Carter County to impose, upon voter approval, a transient guest tax on the charges for RV sites, campsites, lodges, bed and breakfasts, cabins, RV parks, and campgrounds.	$0	Oversight assumes this proposal to be permissive and there would be no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/1960-01N.ORG.htm	http://house.mo.gov/billtracking/bills111/biltxt/intro/HB0824I.htm	http://house.mo.gov/content.aspx?info=/bills111/bilsum/intro/sHB824I.htm
2011	HB 843	Conway	No	This bill authorizes the City of St. Joseph to impose, upon voter approval, a retail sales tax of up to 0.5% for the operation of public safety departments including compensation, pension programs, health care, and additional equipment and facilities.	$0	Oversight assumes this proposal is enabling legislation and would have no fiscal impact unless the governing body would request the voters of their city approve the imposition of a sales tax.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/1973-01N.ORG.htm	http://house.mo.gov/billtracking/bills111/biltxt/intro/HB0843I.htm	http://house.mo.gov/content.aspx?info=/bills111/bilsum/intro/sHB843I.htm
2011	HB 853	Nance	No	This bill authorizes the City of Excelsior Springs to impose, upon voter approval, a retail sales tax of up to 1% for the purpose of funding the construction, maintenance, operation, and equipping of a community center and for retiring any bonds issued for that purpose.	$0	Oversight assumes this proposal is discretionary and would have no local fiscal impact without action by the governing body.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/0782-03N.ORG.htm	http://house.mo.gov/billtracking/bills111/biltxt/intro/HB0853I.htm	http://house.mo.gov/content.aspx?info=/bills111/bilsum/intro/sHB853I.htm
2011	HB 907	Webber	No	This bill authorizes the school board of the Columbia School District to impose, upon voter approval, an additional annual real property tax not to exceed 10 cents per $100 of assessed valuation for the sole purpose of funding early childhood education programs.	$0	Oversight assumes this proposal is permissive and, by itself, would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/2010-02N.ORG.htm	http://house.mo.gov/billtracking/bills111/biltxt/intro/HB0907I.htm	http://house.mo.gov/content.aspx?info=/bills111/bilsum/intro/sHB907I.htm
2011	SB 174	Dempsey	No	This amendment authorizes cities, towns, and villages located in any county of the state to seek voter approval for the imposition of a fee on residential property to fund the repair or replacement of water lines on that property. Butler County and Buchanan County may also seek voter approval for the imposition of a sales tax for economic development purposes.	$0	The fee must receive voter approval before it could be implemented; therefore, Oversight assumes this proposal is permissive and by itself, would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/0102-07N.ORG.htm	http://www.senate.mo.gov/11info/pdf-bill/hcs/SB174.pdf	http://www.senate.mo.gov/11info/BTS_Web/Bill.aspx?SessionType=R&BillID=4093407
2011	SB 223	Mayer	No	This act authorizes public library districts, located at least partially within Butler, Ripley, Wayne, Stoddard, New Madrid, Dunklin, or Pemiscot County, to seek voter approval for a sales tax of not more than one half of one cent to fund the operation and maintenance of libraries within the boundaries of such library district.	$0	Oversight assumes this proposal is discretionary and there would be no local government fiscal impact without action by the governing body of a library district.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/0509-02N.ORG.htm	http://www.senate.mo.gov/11info/pdf-bill/intro/SB223.pdf	http://www.senate.mo.gov/11info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=4013862&BillID=4124272
2011	SB 226	Engler	Yes	This act allows for the organization of ambulance districts which may impose a sales tax not to exceed one-half of one percent.	$0	Oversight assumes this proposal as written is enabling legislation and would require action by the entity's governing body before fiscal impact would be realized. Oversight will indicate no state or local fiscal impact for fiscal note purposes.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/1363-05T.ORG.htm	http://www.senate.mo.gov/11info/pdf-bill/tat/SB226.pdf	http://www.senate.mo.gov/11info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=4517927&BillID=4126432

LEGISLATION WITH LOCAL ELECTIONS - 2007 to 2012

Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2011	SB 309	Kehoe	No	This act allows for the organization of ambulance districts which may impose either a property tax not to exceed thirty cents on the one hundred dollars of assessed valuation or a sales tax not to exceed one-half of one percent. Under current law, ambulance and fire protection districts located in any county in this state, except Greene, Platte, Clay, St. Louis and St. Charles counties, are authorized to seek voter approval for a sales tax of up to one-half of one percent to fund the operation of such districts, provided such sales tax is accompanied by a reduction in the district's property tax rate. This act would allow ambulance and fire protection districts located within St. Louis County to seek voter approval to impose the sales tax, provided such tax is accompanied by a reduction in the districts property tax rate. This act contains provisions that are identical to Senate Bill 826 (2010).		No fiscal note available online	No fiscal note available online	http://www.senate.mo.gov/11info/pdf-bill/intro/SB309.pdf	http://www.senate.mo.gov/11info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=4060328&BillID=4170068
2011	SB 364	Pearce	No	This act authorizes parks, trails and greenways districts to seek voter approval for a one-tenth of one cent sales tax in participating counties to fund the district.	$0	Oversight assumes this proposal is enabling legislation and would have no fiscal impact unless the governing body would request the voters in participating counties to approve a one-tenth of one cent sales tax.	http://www.moga.mo.gov/Oversight/OVER11/fishtm/1816-01N.ORG.htm	http://www.senate.mo.gov/11info/pdf-bill/intro/SB364.pdf	http://www.senate.mo.gov/11info/BTS_Web/Bill.aspx?SessionType=R&BillID=4200896
2010	HB 1316	Deeken	Yes	This bill changes the laws regarding the collection of property taxes and the assessment of property including authorizing the establishment of the Kansas City Zoological District. The voters of the counties of Cass, Clay, Jackson, and Platte may choose to have their county be a part of the district.	$0	Oversight assumes this proposal as written is enabling legislation and would require action by the county's governing body before fiscal impact would be realized. Oversight assumes no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3545-05T.ORG.htm	http://www.house.mo.gov/billtracking/bills101/billtxt/truly/HB1316T.htm	http://www.house.mo.gov/content.aspx?info=/bills101/bilsum/truly/sHB1316T.htm
2010	HB 1442	Jones	Yes	This act authorizes, upon voter approval, a variety of transient guest taxes, property taxes, and sales taxes.	$0	Oversight assumes this proposal as written is enabling legislation and would require action by the city's governing body before fiscal impact would be realized. Oversight assumes no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3380-07T.ORG.htm	http://www.house.mo.gov/billtracking/bills101/billtxt/truly/HB1442T.htm	http://www.house.mo.gov/content.aspx?info=/bills101/bilsum/truly/sHB1442T.htm
2010	SB 578	Shields	Yes	The Port Improvement District Act includes, upon voter approval, the port authority may levy sales and use taxes within the district.		Oversight assumes the proposal is permissive in nature and allows Port Authorities to pursue an increase in sales tax and/or property tax to fund projects. Approval must be given by the voters in the district. Therefore; Oversight will not reflect a direct fiscal impact as a result of this proposal.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3168-04T.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/tat/SB578.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3157521
2010	SB 580	Greisheimer	No	This act modifies various provisions relating to political subdivisions including allowing transient room taxes upon voter approval for several local entities.	$0	Oversight assumes this proposal increases the maximum tax from 5% to 7% that the City of Jefferson could charge guest of hotels and motels and other business that offer sleeping rooms. Oversight assumes the increase could not be taxed without voter approval; therefore, Oversight assumes this proposal to be permissive, and would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3635-07N.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/hcs/SB580.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3157579
2010	SB 605	Mayer	No	Allow transient guest taxes, upon voter approval in Sugar Creek and Waynesville along with other local government changes.	$0	Oversight assumes this proposal would have no fiscal impact to the state or to local governments.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3187-12N.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/hcs/SB605.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3157548
2010	SB 644	Shields	Yes	This act authorizes, upon voter approval, a variety of transient guest taxes, property taxes, and sales taxes.	$0	Since any fiscal impact related to these provisions would depend on future action by local government and voter approval, Oversight will not indicate any impact for fiscal note purposes.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3322-04T.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/tat/SB644.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3157519

LEGISLATION WITH LOCAL ELECTIONS - 2007 to 2012

Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2010	SB 668	Justus	No	This act authorizes the City of Grandview to levy a transient guest tax on charges for sleeping rooms paid by guests of hotels and motels for the purpose of promoting tourism. The proposed tax must be submitted to the voters and shall not be greater than five percent per occupied room per night. This act is identical to the introduced version of Senate Bill 165 (2009) and the Senate Committee Substitute for Senate Bill 1089 (2008).	$0	Oversight assumes the tax could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and there would be no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3084-01P.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/perf/SB668.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3157540
2010	SB 669	Justus	No	This proposal allows the City of Grandview to seek voter approval for a sales tax to fund public safety improvements.	$0	Oversight has no way to determine if any city would receive voter approval to impose a public safety sales tax; therefore, for the purposes of this fiscal note fiscal impact will be shown as zero.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3085-01P.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/perf/SB669.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3157541
2010	SB 691	Wilson	No	This act, upon voter approval, increases the fee collected by each recorder of deeds to fund the county homeless person assistance program from $3 to $10 if such a program has been created by the governing body of such charter county. This act is identical to SB 897 (2008) and SB 80 (2009).	$0	Oversight assumes the fee increases provided for in this proposal would require voter approval. Therefore, Oversight will show the fiscal impact as $0 or the amount estimated by St. Louis County.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3059-01N.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/intro/SB691.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3157574
2010	SB 713	Mayer	No	This act authorizes any public library district, except for library districts located within Adair, Audrain, Clark, Clay, Knox, Lewis, Marion, Monroe, Pike, Putnam, Ralls, Schuyler, Scotland, or Shelby Counties, to seek voter approval for a sales tax of not more than one half of one cent to fund the operation and maintenance of libraries within the boundaries of such library district.	$0	Oversight assumes this proposal is discretionary and there would be no local government fiscal impact without action by the governing body of a library district.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3074-01N.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/intro/SB713.pdf	http://www.senate.mo.gov/10info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=3462991&BillID=3158025
2010	SB 743	Shoemyer	No	This act allows the governing body of a city, town, village or county to submit a proposal to the voters of such city, town village or county allowing the municipality to impose a property tax to fund cemetery maintenance. The tax authorized under this act shall not exceed one fourth of one cent per one hundred dollars assessed valuation and shall not become effective until approved by the voters of the city, town village or county. This act is similar to Senate Bill 168 (2009) and the perfected version of Senate Bill 822 (2008).	$0	Oversight assumes this proposal is discretionary and there would be no local government fiscal impact without action by a local governing body	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3292-01N.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/intro/SB743.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3164366
2010	SB 826	Greisheimer	No	Includes a number of provisions including provisions that would allow ambulance and fire protection districts with assessed valuations which are less than $2.5 billion located within St. Louis County to seek voter approval to impose the sales tax, provided such tax is accompanied by a reduction in the districts property tax rate. Certain provisions of this act are similar to HB 1739 (2010) and SCS/SB 881 (2010).	$0	Officials from St. Louis County assumed a previous version of this proposal would have no fiscal impact on their organization.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/4650-04P.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/perf/SB826.pdf	http://www.senate.mo.gov/10info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=3599841&BillID=3202147
2010	SB 827	Schaefer	No	This act authorizes counties to seek voter approval for the extension of certain taxes which, by law, are set to terminate after a term of years and provides ballot language for the submission of such question to voters. This act is identical to Senate Bill 257 (2009).	$0	The proposed legislation appears to have no fiscal impact. This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/4707-01N.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/intro/SB827.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3204875
2010	SB 862	Callahan	No	This act authorizes the City of Sugar Creek, City of North Kansas City, and the City of Van Buren, upon voter approval, to impose a transient guest tax	$0	Oversight assumes the tax could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and will not reflect a direct fiscal impact as a result of this proposal.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/4692-02P.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/perf/SB862.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3213553
2010	SB 863	Callahan	No	This act authorizes the City of Raytown, City of North Kansas City, and the City of Van Buren, upon voter approval, to impose a transient guest tax	$0	Oversight assumes the tax could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and there would be no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/4605-03P.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/perf/SB863.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3213554

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2010	SB 898	Pearce	No	This act authorizes the governing body of the City of Peculiar to seek voter approval for the imposition of a sales tax to fund public safety improvements.	$0	The tax must receive voter approval before it could be implemented; therefore, Oversight assumes this proposal is permissive and, by itself, would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/4893-01N.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/intro/SB898.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3247175
2010	SB 915	Barnitz	No	Authorizes the governing body of Montgomery County to seek voter approval for the imposition of a transient guest tax and raises the limit for Jefferson City upon voter approval. This act contains provisions which are identical to Senate Bill 276 (2009).	$0	Oversight assumes the increase could not be taxed without voter approval; therefore, Oversight assumes this proposal to be permissive and would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/4471-02P.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/perf/SB915.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3271106
2010	SB 916	Barnitz	No	This act authorizes the City of Waynesville, upon voter approval, to impose a transient guest tax. This act is similar to Senate Bill 387 (2009), House Bill 28 (2009), and House Bill 1967 (2008).	$0	Oversight assumes this proposal is permissive and that the fiscal impact would not be realized without action by the governing body and voter approval. Oversight will show the fiscal impact as zero.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/3600-01N.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/intro/SB916.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3271107
2010	SB 981	Callahan	Yes	This act allows the governing body of Kansas City to seek voter approval to impose a one-eighth, one-fourth, one-half, or three-fourths percent sales tax to provide revenues for public safety activities	$0	Oversight assumes this proposal is enabling legislation and would have no fiscal impact unless the governing body would request the voters of their city approve the imposition of a sales tax.	http://www.moga.mo.gov/Oversight/OVER10/fishtm/5191-01T.ORG.htm	http://www.senate.mo.gov/10info/pdf-bill/tat/SB981.pdf	http://www.senate.mo.gov/10info/BTS_Web/Bill.aspx?SessionType=R&BillID=3358378
2009	HB 28	Day	No	Authorizes the City of Waynesville to impose, upon voter approval, a transient guest tax for a multipurpose conference and convention center	$0	Oversight assumes this proposal, as written, does not mandate that the City of Waynesville impose a transient guest tax for the purpose of funding the construction of and the maintenance of a multipurpose conference and convention center. Oversight assumes this proposal is permissive and that the fiscal impact would not be realized without action by the governing body and voter approval. Oversight will show fiscal impact as zero.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/0199-01N.ORG.htm	http://www.house.mo.gov/billtracking/bills091/biltxt/intro/HB0028I.htm	http://house.mo.gov/content.aspx?info=/bills091/bilsum/intro/sHB28I.htm
2009	HB 376	Hobbs	No	Senate substitute is omnibus bill with a long list of transient guest taxes, property taxes, and sales taxes that are subject to voter approval for a variety of purposes.	$0	Oversight, because this proposal is permissive, will show fiscal impact to local governments to be zero	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1184-05N.ORG.htm	http://www.house.mo.gov/billtracking/bills091/biltxt/senate/1184S.05F.htm	http://www.senate.mo.gov/09info/BTS_Web/Summary.aspx?SessionType=R&BillID=1192378&SummaryID=2343726
2009	HB 572	Corcoran	No	Authorizes cities with at least 5,000 inhabitants to levy property taxes for certain municipal purposes	$0	The proposed legislation appears to have no fiscal impact.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1631-01N.ORG.htm	http://www.house.mo.gov/billtracking/bills091/biltxt/intro/HB0572I.htm	http://house.mo.gov/content.aspx?info=/bills091/bilsum/intro/sHB572I.htm
2009	SB 164	Justus	No	This act authorizes the City of Grandview to seek voter approval to levy a sales tax of up to one-half percent to fund public safety improvements for the city.	$0	Oversight assumes this proposal is enabling legislation and would have no fiscal impact unless the governing body would request the voters of their city approve the imposition of a sales tax.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1026-01N.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/intro/SB164.pdf	http://www.senate.mo.gov/09info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=618750&BillID=533847
2009	SB 165	Justus	No	House committee substitute is omnibus bill with a long list of transient guest taxes and sales taxes that are subject to voter approval for a variety of purposes. Sales taxes are provided for St. Ann, Peculiar, cities in Jefferson County, Grandview, and Ripley county. Transient guest taxes for Waynesville, Montgomery county, Ashland, Centralia, Excelsior Springs, Sugar Creek and others.	$0	No general comment in fiscal note about any of the elections.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/0920-03N.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/hcs/SB165.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=533848
2009	SB 168	Shoemyer	No	This act allows the governing body of a city, town, village or county to submit a proposal to the voters of such city, town village or county allowing the municipality to impose a property tax to fund cemetery maintenance.	$0	Oversight, because this proposal is permissive, will show fiscal impact to local governments to be zero.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/0750-01N.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/intro/SB168.pdf	http://www.senate.mo.gov/09info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=618974&BillID=533849

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2009	SB 187	Vogel	No	Increases the maximum levy from five percent to seven percent for any county, city which is the county seat of any county, and various other cities to impose a tax on charges for sleeping rooms paid by guests of hotels and motels - effective only upon voter approval.	$0	Oversight assumes the increase could not be taxed without voter approval, therefore, Oversight assumes this proposal to be permissive, and would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/0600-01N.ORG.htm		http://www.senate.mo.gov/09info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=637664&BillID=552515
2009	SB 248	Schaefer	No	This act authorizes the City of Ashland to seek voter approval for the imposition of a transient guest tax of not less than two percent nor more than five percent per occupies room per night.	$0	Oversight assumes this proposal allows the city of Ashland to impose a transient guest tax of up to five percent and could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1339-01N.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/intro/SB248.pdf	http://www.senate.mo.gov/09info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=715529&BillID=625459
2009	SB 257	Schaefer	No	This act authorizes counties to seek voter approval for the extension of certain taxes which, by law, are set to terminate after a term of years and provides ballot language for the submission of such question to voters	$0	The proposed legislation appears to have no fiscal impact.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1341-01N.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/intro/SB257.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=629757
2009	SB 266	Mayer	No	This act authorizes public library districts to seek voter approval for a sales tax of not more than one half of one cent to fund the operation, and maintenance of libraries within the boundaries of such library district.	$0	Oversight assumes this proposal is discretionary and would have no fiscal impact without action by the governing body.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/0560-03P.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/perf/SB266.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=636640
2009	SB 276	Barnitz	No	This act authorizes the governing body of Montgomery County to seek voter approval for the imposition of a transient guest tax.	$0	Oversight assumes this proposal to be permissive and would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1538-01P.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/perf/SB276.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=682669
2009	SB 386	Lager	No	This act allows real property owners in Caldwell, Clinton, Daviess, and DeKalb counties to seek voter approval for the creation of exhibition center and recreational facility districts.	$0	In introduced version of bill, Oversight assumes this proposal is permissive and would require voter approval before any fiscal impact would be realized by the state or the new district. In HCS version of bill no general statement on election cost is made because it has become an omnibus bill.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1531-01N.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/intro/SB386.pdf	http://www.senate.mo.gov/09info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=928035&BillID=842318
2009	SB 387	Barnitz	No	This act authorizes the City of Waynesville, upon voter approval, to impose a transient guest tax of up to three percent per occupied hotel and motel room per night.	$0	Oversight assumes this proposal, as written, does not mandate that the City of Waynesville impose a transient guest tax for the purpose of funding the construction of and the maintenance of a multipurpose conference and convention center. Oversight assumes this proposal is permissive and that the fiscal impact would not be realized without action by the governing body and voter approval. Oversight will show the fiscal impact as zero.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/0820-01P.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/perf/SB387.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=842319
2009	SB 447	Pearce	No	This act authorizes the governing body of the City of Peculiar to seek voter approval for the imposition of a sales tax to fund public safety improvements.	$0	The tax must receive voter approval before it could be implemented; therefore, Oversight assumes this proposal is permissive and, by itself, would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1674-01P.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/perf/SB447.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=938193
2009	SB 494	Greisheimer	No	This act would give such counties the option to seek voter approval to impose the property tax or a sales tax not to exceed one-tenth of one percent to fund the establishment, operation, and maintenance of an emergency communications system.	$0	No fiscal note available online	No fiscal note available online	http://www.senate.mo.gov/09info/pdf-bill/intro/SB494.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=952595
2009	SB 507	Callahan	No	This act authorizes the City of Sugar Creek, upon voter approval, to impose a transient guest tax upon charges for all sleeping rooms paid by guests of hotels, motels, bed and breakfast inns and campgrounds for the purpose of promoting tourism. The tax must be at least two percent, but may not exceed five percent per occupied room per night.	$0	Oversight assumes this proposal allows Sugar Creek to impose a transient guest tax of up to five percent and could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER09/fishtm/1671-01P.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/perf/SB507.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=958996

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Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2009	SB 7	Greisheimer	No	Senate substitute is omnibus bill with a long list of transient guest taxes property taxes, and sales taxes that are subject to voter approval for a variety of purposes. Sales taxes are provided for Ashland, Montgomery county, St. Joseph, Buchanan county, 4 counties in NW Missouri, and others.	$0	No fiscal note was produced for Senate Substitute	http://www.moga.mo.gov/Oversight/OVER09/fishtm/0196-01N.ORG.htm	http://www.senate.mo.gov/09info/pdf-bill/intro/SB7.pdf	http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=512683
2008	HB 1431	Hodges	No	This bill authorizes the City of Charleston to impose, upon voter approval, a transient guest tax of 2% to 5% per room per night for the promotion of tourism.	$0	Oversight assumes this proposal is permissive. Fiscal impact would not be realized without action by the local governing body and with voter approval. Oversight assumes this proposal as written does not require that a transient guest tax be imposed, therefore, Oversight will show fiscal impact as $0.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/3265-01N.ORG.htm	http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB1431I.htm	http://www.house.mo.gov/billtracking/bills081/bilsum/intro/sHB1431I.htm
2008	HB 1867	Scavuzzo	No	This bill authorizes the City of Harrisonville to impose, upon voter approval, a sales tax of up to 0.5% for the operation of public safety departments including compensation; pension programs; health care; employment of additional police officers; and additional equipment and facilities.	$0	Oversight assumes this proposal as written is discretionary and would have no fiscal impact unless the governing body of the city would seek voter approval to impose a sales tax for public safety purposes. Oversight has no way to determine if the city were to receive voter approval to impose a public safety sales tax; therefore, for the purposes of this fiscal note fiscal impact will be shown as zero.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/3173-02N.ORG.htm	http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB1867I.htm	http://www.house.mo.gov/billtracking/bills081/bilsum/intro/sHB1867I.htm
2008	HB 1967	Day	No	This bill authorizes the City of Waynesville to impose, upon voter approval, a transient guest tax of up to 3% on all occupied hotel and motel rooms.	$0	Oversight assumes this proposal is permissive. Fiscal impact would not be realized without action by the governing body and with voter approval. Oversight will show fiscal impact as zero.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/4144-02N.ORG.htm	http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB1967I.htm	http://www.house.mo.gov/billtracking/bills081/bilsum/intro/sHB1967I.htm
2008	HB 2042	Hughes	No	This act, upon voter approval, increases the fee collected by each recorder of deeds to fund the county homeless person assistance program from $3 to $10 if such a program has been created by the governing body.		No fiscal note available online	No fiscal note available online	http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB2042I.htm	http://www.house.mo.gov/billtracking/bills081/bilsum/intro/sHB2042I.htm
2008	HB 2047	Curls	Yes	Certain counties are authorized to impose, upon voter approval, a special road rock fund tax at a rate not to exceed 25 cents per acre for property classified as agricultural and horticultural. The bill increases the rate to up to $1 per acre.	$0	Oversight assumes the provisions provided for in Section 231.444 are permissive and this proposal as written does not require that certain third class counties impose an increase in the rate of levy for road improvement purposes. For purposes of this fiscal note Oversight assumes no fiscal impact to local government. Fiscal impact will be shown as $0.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/4783-02T.ORG.htm	http://www.house.mo.gov/billtracking/bills081/biltxt/truly/HB2047T.HTM	http://www.house.mo.gov/billtracking/bills081/bilsum/truly/sHB2047T.htm
2008	HB 2115	Salva	No	This bill authorizes the City of Sugar Creek to impose, upon voter approval, a transient guest tax of up to 5% per occupied room per night for the promotion of tourism.	$0	Oversight assumes this proposal is permissive. Fiscal impact would not be realized without action by the local governing body and with voter approval. Oversight assumes this proposal as written does not require that a transient guest tax be imposed, therefore, Oversight will show fiscal impact as $0.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/5014-01N.ORG.htm	http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB2115I.htm	http://www.house.mo.gov/billtracking/bills081/bilsum/intro/sHB2115I.htm
2008	HB 2126	Holsman	No	This bill authorizes the City of Grandview to impose, upon voter approval, a transient guest tax of up to 5% on all occupied hotel and motel rooms for the promotion of tourism and to fund construction, maintenance, and operation of capital improvements.	$0	Oversight assumes this proposal increases the tax to 5% that Grandview could charge guest of hotels and motels and other business that offer sleeping rooms. Oversight assumes the tax could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and there would be no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/5038-01N.ORG.htm	http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB2126I.htm	http://www.house.mo.gov/billtracking/bills081/bilsum/intro/sHB2126I.htm

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2008	HB 2150	Baker	No	This bill authorizes all counties to impose, upon voter approval, a sales tax of up to 0.5% for the purpose of funding the operation of public safety departments, including police and fire departments, and the communications of the public safety departments.	$0	Oversight has no way to determine if any county would receive voter approval to impose a public safety sales tax; therefore, for the purposes of this fiscal note fiscal impact will be shown as zero.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/5091-01N.ORG.htm	http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB2150I.htm	http://www.house.mo.gov/billtracking/bills081/bilsum/intro/sHB2150I.htm
2008	SB 822	Shoemyer	No	This act allows the governing body of a city, town, village or county to submit a proposal to the voters of such city, town village or county allowing the municipality to impose a property tax to fund cemetery maintenance.	$0	Oversight assumes this proposal is discretionary and as written would not have any fiscal impact.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/3239-02P.ORG.htm	http://www.senate.mo.gov/08info/pdf-bill/perf/SB822.pdf	http://www.senate.mo.gov/08info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=202742&BillID=109
2008	SB 845	Rupp	No	HCS modifies various provisions relating to political subdivisions including transient guest taxes and sales taxes, upon voter approval, for various purposes for Cass County, Charleston, Grandview, Harrisonville, Raytown, Waynesville, and others.	$0	Oversight assumes these sections are permissive. Fiscal impact would not be realized without action by the local governing body and with voter approval. Oversight assumes this proposal as written does not require that a transient guest tax be imposed, therefore, Oversight will show fiscal impact as $0.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/3502-02N.ORG.htm	http://www.senate.mo.gov/08info/pdf-bill/hcs/SB845.pdf	http://www.senate.mo.gov/08info/BTS_Web/Bill.aspx?SessionType=R&BillID=89
2008	SB 897	Wilson	No	This act, upon voter approval, increases the fee collected by each recorder of deeds to fund the county homeless person assistance program from $3 to $10 if such a program has been created by the governing body.	$0	Oversight assumes the fee increases provided for in this proposal would require voter approval. Oversight will show fiscal impact as $0 or the amount estimated by the County Recorder of Deeds.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/3856-01N.ORG.htm	http://www.senate.mo.gov/08info/pdf-bill/intro/SB897.pdf	http://www.senate.mo.gov/08info/BTS_Web/Bill.aspx?SessionType=R&BillID=6732
2008	SB 900	Vogel	No	Current law allows any county, city which is the county seat of any county, and various other cities to impose a tax, not to exceed five percent per room per night, on charges for sleeping rooms paid by guest of hotels and motels. This act increases the maximum levy from five percent to eight percent. Such increase will become effective only upon voter approval.	$0	Oversight assumes this proposal increases the maximum tax from 5% to 8% that certain cities and counties could charge guest of hotels and motels and other business that offer sleeping rooms. Oversight assumes the increase could not be taxed without voter approval, therefore, Oversight assumes this proposal to be permissive, and would have no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/3443-01N.ORG.htm	http://www.senate.mo.gov/08info/pdf-bill/intro/SB900.pdf	http://www.senate.mo.gov/08info/BTS_Web/Bill.aspx?SessionType=R&BillID=13099
2008	SB 1089	Justus	No	This act authorizes the City of Grandview to levy a transient guest tax on charges for sleeping rooms paid by guests of hotels and motels for the purpose of promoting tourism.	$0	Oversight assumes the tax could not be implemented without voter approval. Therefore, Oversight assumes this proposal to be permissive and there would be no state or local fiscal impact.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/4970-02P.ORG.htm	http://www.senate.mo.gov/08info/pdf-bill/perf/SB1089.pdf	http://www.senate.mo.gov/08info/BTS_Web/Bill.aspx?SessionType=R&BillID=84827
2008	SB 1209	Callahan	No	HCS modifies laws regarding taxes and fees including voter approved local transient guest taxes and sales taxes for Sugar Creek, Waynesville, Grandview, St. Charles and St. Louis counties.	$0	Oversight assumes these sections are permissive. Fiscal impact would not be realized without action by the local governing body and with voter approval. Oversight assumes this proposal as written does not require that a transient guest tax be imposed, therefore, Oversight will show fiscal impact as $0.	http://www.moga.mo.gov/Oversight/OVER08/fishtm/5303-05N.ORG.htm	http://www.senate.mo.gov/08info/pdf-bill/hcs/SB1209.pdf	http://www.senate.mo.gov/08info/BTS_Web/Bill.aspx?SessionType=R&BillID=148941
2007	HB 69	Day	No	Sections 67.1003, 67.1016, and 67.1360 allows cities to impose, with voter approval, a transient guest tax**.** Section 67.1016 allows any county of the second, third or fourth classification, with voter approval, to impose a transient guest tax.	$0	Oversight assumes any action would require approval of the governing body with voter approval. Oversight assumes no fiscal impact from this section.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/0086-09N.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/senate/0086S.09F.htm	http://house.mo.gov/content.aspx?info=/bills071/bilsum/perf/sHB69P.htm
2007	HB 205	Marsh	Yes	This bill authorizes certain cities and counties to impose a sales or transient guest tax; extends the expiration date of the Tourism Supplemental Revenue Fund; and allows certain counties to establish a theater, cultural arts, and entertainment district. Bill includes Sullivan and the counties of Perry and Pemiscot.	$0	Oversight assumes this proposal is permissive, and as written would have no fiscal impact without voter approval.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/0859-02T.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/truly/HB0205T.HTM	http://house.mo.gov/content.aspx?info=/bills071/bilsum/truly/sHB205T.htm
2007	HB 234	Tilley	No	This bill authorizes Perry County to impose, upon voter approval, a sales tax of up to one-fourth of 1% to equally fund senior services and youth programs. A senior services tax commission must be established to administer the revenue received for senior services.	$0	$0 shown but no explicit statement on local election cost.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/0903-01N.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/intro/HB0234I.htm	http://house.mo.gov/content.aspx?info=/bills071/bilsum/intro/sHB234I.htm

LEGISLATION WITH LOCAL ELECTIONS - 2007 to 2012

Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2007	HB 271	Nolte	No	Authorizes the City of Gladstone to impose a transient guest tax for the promotion of tourism	$0	Oversight assumes this proposal is permissive, and as written, would have no fiscal impact.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/0690-01N.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/intro/HB0271I.htm	http://house.mo.gov/content.aspx?info=/bills071/bilsum/intro/sHB271I.htm
2007	HB 595	Schlottach	No	Allows Franklin County to levy a transient guest tax, upon voter approval, in the Sullivan C-II School District which is partially located in both the City of Sullivan and Franklin County to be used for tourism	$0	Oversight assumes this proposal is permissive, and as written would have no fiscal impact without voter approval.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/1456-01N.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/intro/HB0595I.htm	http://house.mo.gov/content.aspx?info=/bills071/bilsum/intro/sHB595I.htm
2007	HB 624	Wilson	No	Authorizes Perry County to impose, upon voter approval, a sales tax of up to .25% to equally fund senior services and youth programs. Authorizes any second, third, or fourth classification county to impose a transient guest tax, upon voter approval, on all hotel or motel sleeping rooms within the county. Authorizes the City of Hollister to impose, upon voter approval, a transient guest tax of 2% to 5% per room, per night, for the promotion of tourism;	$0	Oversight will assume the city could submit the issue to the voters on any local election date, as early as November 2007, and will indicate the election cost to the local government as $0 or Unknown in FY 2008.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/1586-04N.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/commit/HB0624C.HTM	http://house.mo.gov/content.aspx?info=/bills071/bilsum/commit/sHB624C.htm
2007	HB 722	Wood	No	This act authorizes the City of Hollister to impose, upon voter approval, a transient guest tax of up to five percent per night per sleeping quarters for the promotion of tourism.	$0	Oversight assumes fiscal impact would not be realized without action by the governing body with voter approval. Oversight will show fiscal impact as $0 to unknown.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/1732-01N.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/intro/HB0722I.htm	http://house.mo.gov/content.aspx?info=/bills071/bilsum/intro/sHB722I.htm
2007	HB 795	Flook	Yes	Changes the laws regarding sales and transient guest taxes; theater, cultural arts, and entertainment districts; municipal code violations in Kansas City; and certain directors of public water supply districts. Includes Perry and Pulaski counties and the cities of Augusta, Carrollton, Chillicothe, Sullivan,Liberty, Miami, Missouri City, and Pleasant Hill.	$0	Oversight assumes this proposal is permissive, and as written would have no fiscal impact without voter approval.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/1464-06T.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/truly/HB0795T.HTM	http://house.mo.gov/content.aspx?info=/bills071/bilsum/truly/sHB795T.htm
2007	HB 919	Schneider	No	Authorizes the City of Gladstone to impose, upon voter approval, a transient guest tax of up to 5% on hotel and motel rooms to be used for the promotion of tourism (Section 67.1003). Authorizes Franklin County to impose, upon voter approval,a transient guest tax between 2% and 5% per room per night in the Sullivan C-II School District to be used for the promotion of tourism (Section 67.1360);	$0	$0 shown but no explicit statement on local election cost.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/2113-03N.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/commit/HB0919C.HTM	http://house.mo.gov/content.aspx?info=/bills071/bilsum/commit/sHB919C.htm
2007	HB 1089	Stevenson	No	Authorizes Perry County to levy, upon voter approval, a sales tax of up to 1/4 of 1% to equally fund senior services and youth programs. The revenue received for senior services will be administered by a senior services tax commission (Section 67.997);	$0	Oversight assumes that implementing this proposal would require voter approval. Collections and offsetting distributions of $0 or Unknown have been recorded in the Senior Services and Youth Programs Sales Tax Trust Fund. Oversight has also indicated a fiscal impact of $0 or Unknown to the local government.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/2596-04N.ORG.htm	http://house.mo.gov/content.aspx?info=/bills071/biltxt/commit/HB1089C.HTM	http://house.mo.gov/content.aspx?info=/bills071/bilsum/commit/sHB1089C.htm
2007	SB 22	Greisheimer	Yes	CCS modifies various provisions relating to political subdivisions including transient guest taxes and sales taxes, upon voter approval, for various purposes for Perry county, Pulaski county, Gladstone, Sullivan, Hollister, Joplin, Kingville, and Jasper county.	$0	Oversight assumes any action would require approval of the governing body with voter approval. Oversight assumes no fiscal impact from this section.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/0382-12T.ORG.htm	http://www.senate.mo.gov/07info/pdf-bill/tat/SB22.pdf	http://www.senate.mo.gov/07info/BTS_Web/Bill.aspx?SessionType=R&BillID=95
2007	SB 30	Nodler	Yes	CCS modifies various provisions relating to political subdivisions including transient guest taxes and sales taxes, upon voter approval, for various purposes for Perry county, Independence, and second, third, and fourth class counties.	$0	Oversight assumes the local fiscal impact would be dependent on action by the governing body with voter approval. Oversight will indicate a fiscal impact of $0 to unknown for local governments.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/0246-06T.ORG.htm	http://www.senate.mo.gov/07info/pdf-bill/tat/SB30.pdf	http://www.senate.mo.gov/07info/BTS_Web/Bill.aspx?SessionType=R&BillID=103

LEGISLATION WITH LOCAL ELECTIONS - 2007 to 2012

Session Year	Bill Number	Sponsor	TAFP?	Purpose	Fiscal note cost	Comment on fiscal note on local elections	Fiscal note link	Bill text link	Bill summary link
2007	SB 81	Greisheimer	Yes	CCS allows cities, towns, and villages within Clay County, Franklin County, Boone County, Jasper County or Jackson County, to form a Theater, Cultural Arts, and Entertainment District. Such counties and St. Charles County may also form such a district. Counties, cities, towns, and villages that adopt transect-based zoning may also form such districts. Also allows Hollister (transient guest tax) and Independence (sales tax) to levy tax upon voter approval.	$0	Oversight assumes the proposal is permissive in nature. It allows local political subdivisions to create a theater, cultural arts and entertainment districts as well as allows certain cities to impose a transient guest tax. Oversight will assume a $0 to unknown fiscal impact to local political subdivisions. These taxes are subject to voter approval.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/0259-05T.ORG.htm	http://www.senate.mo.gov/07info/pdf-bill/tat/SB81.pdf	http://www.senate.mo.gov/07info/BTS_Web/Bill.aspx?SessionType=R&BillID=52
2007	SB 233	Crowell	Yes	CCS authorizes Perry County, pending voter approval, to levy a sales tax of up to one-fourth of one percent to equally fund senior services and youth programs. CCS also authorizes the City of Gladstone to impose, upon voter approval, a transient guest tax of up to 5% on hotel and motel rooms to be used for the promotion of tourism.	$0	Oversight assumes this proposal is permissive, and as written, would have no fiscal impact.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/0929-03T.ORG.htm	http://www.senate.mo.gov/07info/pdf-bill/tat/SB233.pdf	http://www.senate.mo.gov/07info/BTS_Web/Bill.aspx?SessionType=R&BillID=3406
2007	SB 345	Shoemyer	No	This act allows the governing body of a county to submit a proposal to the voters of the county allowing the county to impose a property tax to fund cemetery maintenance.	$0	Oversight assumes this proposal as written is permissive and would have no fiscal impact without action by their governing body with voter approval.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/1657-01P.ORG.htm	http://www.senate.mo.gov/07info/pdf-bill/perf/SB345.pdf	http://www.senate.mo.gov/07info/BTS_Web/Bill.aspx?SessionType=R&BillID=6287
2007	SB 365	Koster	No	This act authorizes the governing body of any city to impose an annual real property tax to fund the construction, operation and maintenance of a community health center. The act authorizes such cities to enter into agreements with taxing districts, located at least partially within such city, allowing such districts to levy the tax authorized under this act in the portion of such districts not located within the incorporated limits of the city, provided such districts receive prior voter approval. The tax authorized by this act shall not exceed thirty-five cents per year on each one hundred dollars assessed valuation and shall not become effective until approved by the voters of the city and, if applicable, any district imposing the tax.	$0	Oversight assumes this proposal as written is permissive, and would have no fiscal impact without action of the governing body with voter approval.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/1653-02N.ORG.htm	http://www.senate.mo.gov/07info/pdf-bill/comm/SB365.pdf	http://www.senate.mo.gov/07info/BTS_Web/Bill.aspx?SessionType=R&BillID=7390
2007	SB 624	Coleman	No	This act allows the City of St. Louis to put before its voters a ballot measure allowing the city to impose a sales tax, not to exceed one-half of one percent, solely for the purpose of providing revenues for the operation of public safety departments, including police and fire departments.	$0	Oversight assumes that this proposal is permissive and as written would have no fiscal impact without action by the governing body with voter approval.	http://www.moga.mo.gov/Oversight/OVER07/fishtm/2185-01N.ORG.htm	http://www.senate.mo.gov/07info/pdf-bill/intro/SB624.pdf	http://www.senate.mo.gov/07info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=604943&BillID=51758
2007	SB 678	Goodman	No	This act authorizes Kimberling City to impose, upon voter approval, a transient guest tax of up to five percent per night per sleeping quarters for the promotion of tourism.		No fiscal note available online	No fiscal note available online	http://www.senate.mo.gov/07info/pdf-bill/intro/SB678.pdf	http://www.senate.mo.gov/07info/BTS_Web/Bill.aspx?SessionType=R&BillID=55971
2007	SB 679	Goodman	No	This act authorizes the City of Hollister to impose, upon voter approval, a transient guest tax of up to five percent per night per sleeping quarters for the promotion of tourism.		No fiscal note available online	No fiscal note available online	http://www.senate.mo.gov/07info/pdf-bill/intro/SB679.pdf	http://www.senate.mo.gov/07info/BTS_Web/Bill.aspx?SessionType=R&BillID=55972
2007	SJR 16	Shoemyer	No	Upon voter approval, this proposed constitutional amendment would authorize political subdivisions to submit to the qualified voters any ballot measure increasing or decreasing revenue without further statutory authorization, provided that laws in effect on the effective date of this amendment shall remain in effect unless later amended or repealed.	$0	No fiscal note available online	No fiscal note available online	http://www.senate.mo.gov/07info/pdf-bill/intro/SJR16.pdf	http://www.senate.mo.gov/07info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=558817&BillID=6280

Marc H. Ellinger and Bryan T. Pratt on behalf of Opponents to the Proposed Measure provided the following information as an opponent of this initiative petition.

Executive Summary

Mr. Reading has submitted Initiative Petition 14-026, which is similar to Initiative Petitions 14-019 and 14-023, and at least some of the nineteen initiatives that he filed in the 2012 election cycle. With respect to the prior initiative petitions, Mr. Reading urged the Auditor's office to produce a fiscal note and fiscal note summary of "no fiscal impact," which it did. We dispute Mr. Reading's assertion that this initiative petition creates "no fiscal impact," and we urge you to quantify the full fiscal impact, as detailed below. It is undisputed that higher tobacco taxes will reduce the quantity of cigarettes purchased in Missouri by residents and non-residents. Further, increased tobacco taxes could incentivize Missouri residents to shift their purchases of tobacco products to neighboring states or localities with lower taxes. Consequently, the tax increase will have adverse effects on state, county and municipal revenues, resulting in a negative fiscal impact at both the state and local levels.

Summary of 14-026

- The proposed initiative gives local voters the option to increase tobacco taxes in cities and counties

Proposed Statement of Fiscal Impact for 14-026

The total cost to state or local governmental entities is unknown. Entities could have millions of dollars of lost revenue related to a reduction in tax revenues and sales migration to border states if local taxes on tobacco are increased. Additionally, local entities could have significant election related costs.

Support for using "if" statements

The State Auditor has previously used "if" statements to suggest to voters that an initiative may have certain consequences and alert voters of the fiscal impact of such consequences. Two initiative petitions in the 2012 election cycle had this type of language:

2012-014

> State government would incur estimated costs of up to $76,000 and could incur other unknown potential litigation costs. Local election authorities could incur estimated costs exceeding $1 million if ballot reprinting would be necessary.

2012-066

> State governmental entities could have annual lost revenue estimated at $2.5 to $3.5 million that could be partially offset by expenditure reductions for monitoring industry compliance. Local governmental entities could have unknown total lost revenue related to business license or other business operating fees if the proposal results in business closures.

The ballot title for 2012-066 was found to be neither insufficient nor unfair by the Missouri Supreme Court. *Brown v. Carnahan,* 370 S.W.3d 637, 667 (Mo. banc 2012).

In *Brown v. Carnahan,* 370 S.W.3d 637, 654 (Mo. banc 2012), the Missouri Supreme Court explained, "[a fiscal note] summary's words are considered sufficient and fair where they adequately and without bias, prejudice, or favoritism synopsize the fiscal note." The court explained that requiring fairness and sufficiency in the fiscal note and fiscal note summary are procedural safeguards. The safeguards seek to "(1) promote an informed understanding by the people of the probable effects of the proposed amendment, or (2) to prevent a self-serving faction from imposing its will upon the people without their full realization of the effects of the amendment." *Id.* (citing *Buchanan v. Kirkpatrick,* 615 S.W.2d 6, 11-12 (Mo. banc 1981)). The probable effect of allowing cash-strapped local jurisdictions the option to increase tobacco excise taxes is that many will, in fact, increase such taxes. In order for citizens to have an informed understanding of the probable effects of the proposed amendment, the fact that increased tobacco excise taxes will result in decreased tax-paid sales and therefore decreased revenues to state and local government entities must be included.

Increased tobacco taxes will result in decreased tax-paid sales

In Fiscal Note 12-05,[1] the Division of Budget & Planning stated as follows:

> "Elasticity" is the ratio of the change in quantity sold to the change in price. The CDC estimates the cigarette price elasticity as -0.4, which suggests a 4% drop in sales for each 10% increase in cost. However, research by Goolsbee (2004) demonstrates the elasticity for state cigarette taxes likely exceeds -1.2, and could exceed -2.0, depending on internet access.

In the same fiscal note, the proponents of the proposed measure also claimed "the total expected reduction in smoking consumption as a result of a 10% price increase is 4%." A report utilized by opponents agreed "[H]igher cigarette taxes in Missouri will raise cigarette prices and reduce the quantities of cigarettes purchased in Missouri."[2] The state, proponents and opponents agree that an increase in tobacco taxes results in decreased tax-paid sales within Missouri.

Increased tobacco taxes will result in cross-border migration

In addition to the general decrease in tax-paid sales caused by elasticity, tax-paid sales in Missouri will further decrease as adult consumers shift their purchases to jurisdictions with lower tobacco taxes. Under the proposed initiative, there is no cap on how high local governments could increase the excise tax on tobacco products. The last major proposed increase (Initiative Petition 2012-134) would have resulted in Missouri having a higher tobacco tax than the state excise taxes from the four states contiguous to Missouri. Thus, it is likely that local tobacco taxes, when combined with Missouri's state excise taxes on tobacco, would exceed the tobacco excise taxes imposed by Missouri's neighboring states. As tobacco products become more

[1] Fiscal Note 12-05 available at: http://auditor.mo.gov/Notes/12-05.pdf.
[2] Haslag, Joseph. Holding Whom Harmless: An Analysis of the Economic and Fiscal Impacts Associated with Proposition B (August 20, 2012) (attached hereto as Appendix A).

expensive due to higher excise taxes, adult consumers often react by shifting their tobacco purchases across state lines or to other sources.[3] Missouri is uniquely affected by cross-border changes in purchasing behavior because the state's two largest cities are so close to neighboring states. In fact, approximately 25% of the state's population is from the sixteen counties that border the four contiguous states with the lowest tobacco taxes.[4] The Haslag Report found that while some Missourians will simply stop smoking "other Missourians will reduce their in-state purchases and out-of-state consumers will reduce their purchases in Missouri."[5] The cross-border purchasing would result in significantly less revenue to both the state and the locality in terms of sales tax and excise tax revenue.

The cost of decreased tax-paid sales

Haslag, in examining a proposal that would raise Missouri's *state* cigarette excise tax from $0.17 to $0.90, concluded that the state excise tax increase would result in significant lost revenue to the state and municipalities. He estimated this would reduce the quantity of cigarettes purchased from 521 million packs to 429 million packs.[6] This would result in decreases in expected monies to be paid into certain existing funds, decreases in state sales tax revenue, decreases in local sales tax revenue and decreases in excise tax receipts.[7] By his estimates, such a proposal would result in at least a $34.8 million reduction in state, county and municipal revenues.[8]

Haslag's estimates are based on a $0.73 tax increase per pack of cigarettes. Initiative Petition 14-23 does not specify the potential increase in tobacco taxes and places no cap on the extent to which the local excise tax could be increased. We have seen other localities impose significant excise taxes upon tobacco products. For example, the local cigarette excise tax rate in Cook County, Illinois is $3.00 per pack of cigarettes; in New York City the local excise tax rate is $1.50 per pack of cigarettes.[9] Of course, these local excise taxes are on top of existing state excise taxes. These types of increases at the local level would exacerbate the effect of cross-border sales. The cost of such decreased Missouri tax-paid sales and the cross-border migration of sales is significant and should be reflected in the fiscal note summary.

Election costs

Finally, Initiative Petition 14-026 is similar to the proposals submitted in 2012 by Mr. Reading. With respect to those proposals, some local government entities reported potential election costs. Jasper County submitted an estimate of costs less than $50,000 for an election, while St. Charles reported costs of approximately $260,000.[10] Such election costs should be reflected within the fiscal note.

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[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] Local Government Cigarette Tax Rates & Fees, Campaign for Tobacco-Free Kids, available at http://www.tobaccofreekids.org/research/factsheets/pdf/0304.pdf.
[10] Fiscal Note 11-81, available at http://auditor.mo.gov/Notes/11-81.pdf.

Conclusion

Increased tobacco taxes will result in decreased tax-paid sales within Missouri and this will result in a significant negative fiscal impact to the state and to local government entities. In order for citizens to have an informed understanding of the probable effects of the proposed amendment, this information must be made a part of the fiscal note and fiscal note summary.

Holding Whom Harmless:
An Analysis of the Economic and Fiscal Impacts Associated with Proposition B

A report by

Joseph Haslag, Ph D*

August 20, 2012

* Dr. Haslag is Professor and Kenneth Lay Chair in Economics at the University of Missouri-Columbia. The views expressed in this report are Dr. Haslag's and do not reflect the views or opinions of the University of Missouri.

Executive Summary

In this report, I quantify the economic and fiscal impacts associated with an increase in the Missouri cigarette excise tax. The November 2012 ballot includes Proposition B. If passed, Proposition B would raise Missouri's state cigarette excise tax from $0.17 to $0.90. Suppose everything else in Missouri remained unchanged. Consistent with such a tax increase, cigarette prices in Missouri will increase and the quantity purchased in Missouri will decline.

Proposition B would have effects on other tobacco products and on a select group of tobacco manufacturers. If passed, roll-your-own tobacco would be subject to a 35 percent tax applied on manufacturers' invoice price. Missouri would apply a 25 percent tax on the invoice price on tobacco products other than cigarettes. Currently, both roll-your-own and other tobacco products are subject to a 10 percent tax on the invoice price. In addition, cigarette manufacturers that did not participate in the Master Settlement Agreement—so-called Non-Participating Manufacturers—would be required to make a $0.569 payment per pack sold in Missouri as the allocable share repeal is implemented. Overall, Non-Participating Manufacturers would see taxes on their cigarettes increase by $1.299 per pack.

Data are not readily available for sales of roll-your-own and other tobacco products. Consequently, in this report, I focus on cigarette sales.

Two impacts are analyzed in this report. The economic impact is measured by the change in the quantity of cigarettes purchased in Missouri. The fiscal impact is measured by the change in revenues collected by Missouri's state, county, and municipal governments. At the state level, there will be new revenues collected from the higher excise tax. It is important to note that existing funds will not be held harmless as the expected monies paid per year into the State School Money Fund will decrease by $3.3 million, the expected monies paid into the Health Initiative Fund will decrease by $1.5 million per year, and the expected monies paid into the Fair Share Fund will decrease by $1.5 million per year. Thus, the expected decrease to the three funds is $6.3 million.

In addition, sales tax receipts collected by Missouri will suffer. In each of the three political subdivisions, sales taxes are collected as a fraction of cigarette prices before any state excise sales tax is applied. Accordingly, a decrease in the quantity of cigarettes purchased in Missouri will affect the sales tax revenues. The total reduction in expected state sales tax collection is $16 million per year. Sales tax collections by counties and municipalities will also be affected. In my baseline model of cigarette purchases by political subdivision, my calculations indicate that the expected decrease in Missouri county sales tax receipts is $6.7 million per year. St. Louis County is expected to see sales tax receipts fall by $1.8 million per year alone. St. Louis City is expected to lose over $900,000 in sales tax receipts per year

and the city is expected to lose another quarter million dollars in city excise taxes collected per year. Sales tax receipts collected by municipalities will also fall. By my calculations, the twenty largest municipalities, excluding St. Louis City, would see total sales tax receipts fall by $2.6 million per year if Proposition B passes. Each political subdivision is collecting its own sales tax on cigarettes.

With Proposition B passing, Missouri's cigarette excise tax will be higher than Kansas, Nebraska, Kentucky and Tennessee. I modify the baseline model to account for cigarette purchases by county. There are 16 counties that are contiguous to those four states. The modified model is constructed so that cigarette purchases in those 16 counties exhibit greater price sensitivity than counties not contiguous to those four states. For Jackson County, sales tax receipts are expected to decrease by over $500,000 per year with border effects taken into account. In addition, Jackson County is expected to lose another $500,000 in county excise tax receipts per year.

Thus, Proposition B will reduce state, county & municipal revenues by $34.8 million per year as follows:

- $6.3 million per year from existing funds = $3.3 million from the State School Money Fund + $1.5 from the Health Initiative Fund + $1.5 million from the Fair Share Fund.
- $25.3 million per year in sales taxes = $16 million state + $6.7 million county + $2.6 million municipals.
- $3.2 million per year in local cigarette excise taxes.

In summary, a higher cigarette excise tax in Missouri will raise cigarette prices and reduce the quantities of cigarettes purchased in Missouri. The price increase will have adverse effects on the state, county and municipal revenues that rely on cigarette purchases. Based on economic theory, Proposition B fails to satisfy the hold-harmless condition. Indeed, the fiscal impacts will be widespread and felt by every political subdivision in the state of Missouri. Instead, no one will be held harmless if Proposition B passes.

1. Introduction

Missourians will consider an increase to the state's cigarette excise tax. The November 2012 ballot initiative—hereafter referred to as Proposition B--raises the tax from $0.17 cents per pack to $0.90 cents per pack.

An increase in cigarette excise taxes will increase the price that consumers pay. Consumers respond to higher prices by reducing their purchases. As cigarette purchases decrease, there are two important questions. First, what is the expected decrease in cigarette purchases in Missouri owing to the higher cigarette excise tax? Second, what are the implications of the decreased purchases on tax receipts for state, county and municipal governments?

The Missouri State Auditor provided an answer to the first question. In the Fiscal Note for Proposition B, the Office of Administration calculated the expected decrease in cigarette purchases in Missouri. In this report, I assess the validity of the underlying assumptions used by the Office of Administration in their calculations. The State Auditor's Fiscal Note completely ignored the fiscal impact; that is, How will the cigarette excise tax affect tax receipts paid to the state, counties and cities in Missouri? In the current economic environment, with budget stresses at the state and local levels continuing from the last economic recession, the answers to the second question are particularly important.

The purpose of this study is to quantify the effects that the excise tax increase will have on economic activity and fiscal impacts. In particular, I am interested in assessing the revenue impacts on state and local jurisdictions. I structure my analysis on the following five questions: the effects on (i) statewide cigarette sales; (ii) revenues from the additional excise tax and the expected monies distributed to the new excise tax funds; (iii) revenues paid to the existing excise tax funds; (iv) general revenue fund from sales taxes; and (v) revenues collected at the county level and for selected municipalities across the state.

The report is organized as follows. Section 2 provides an overview of the most important elements of Proposition B. In addition, I describe the current excise tax structure. In Section 3, I present evidence on state excise tax receipts over time, focusing on the most recent evidence as a way to initialize the analysis. I quantify the expected economic impact that a $0.73 increase in the cigarette excise tax will have on the quantity of cigarette packs purchased in Missouri in Section 4. I compare my results with those presented in the State Auditor's Fiscal Note and compute the expected fiscal impacts that the reduced quantity of cigarette purchases will have on state sales tax receipts. In Section 5, I compute the expected sales tax receipts lost by county and selected city governments because of the reduction in cigarette purchases accompanying the excise tax increase under Proposition B. I consider two alternatives, one in which the cigarette purchases are distributed according to county populations and another in which there is a border

effect for counties contiguous to Kansas, Nebraska, Kentucky and Tennessee. I pick those four states because Proposition B would result in cigarette prices in Missouri being higher than in those four contiguous states. An alternative analysis conducted by Campaign for Tobacco Free Kids is presented in Section 6 along with the implied expected revenue impacts per year. Section 7 offers a brief summary of my findings.

2. Proposition B: Key Features of the Law

Currently, Missouri collects 17 cents on each pack of cigarettes sold within the state. Missouri's state cigarette tax is the lowest in the nation. Table 1 provides July 2012 data on state-level cigarette taxes for all fifty states and the District of Columbia. As Table 1 shows, Missouri applies the lowest tax per pack of cigarettes in the United States. The next lowest state cigarette tax is Virginia's $0.30 per pack. Meanwhile, New York State collects $4.35 per pack, followed by Rhode Island collecting $3.50 per pack.

Table 1

State Cigarette Excise Taxes and Rankings

State	Tax	Rank	State	Tax	Rank	State	Tax	Rank
Alabama	$0.425	47th	**Kentucky**	$0.60	40th	**North Dakota**	$0.44	46th
Alaska	$2.00	11th	**Louisiana**	$0.36	49th	**Ohio**	$1.25	28th
Arizona	$2.00	11th	**Maine**	$2.00	11th	**Oklahoma**	$1.02	31st
Arkansas	$1.15	30th	**Maryland**	$2.00	11th	**Oregon**	$1.18	29th
California	$0.87	33rd	**Massachusetts**	$2.51	10th	**Pennsylvania**	$1.60	21st
Colorado	$0.84	34th	**Michigan**	$2.00	11th	**Rhode Island**	$3.50	2nd
Connecticut	$3.40	3rd	**Minnesota**	$1.60	21st	**South Carolina**	$0.57	42nd
Delaware	$1.60	21st	**Mississippi**	$0.68	37th	**South Dakota**	$1.53	24th
District of Columbia	$2.86	6th	**Missouri**	$0.17	51st	**Tennessee**	$0.62	39th
Florida	$1.339	27th	**Montana**	$1.70	17th	**Texas**	$1.41	25th
Georgia	$0.37	48th	**Nebraska**	$0.64	38th	**Utah**	$1.70	17th
Hawaii	$3.20	4th	**Nevada**	$0.80	35th	**Vermont**	$2.62	8th
Idaho	$0.57	42nd	**New Hampshire**	$1.68	19th	**Virginia**	$0.30	50th
Illinois	$1.98	16th	**New Jersey**	$2.70	7th	**Washington**	$3.025	5th
Indiana	$0.995	32nd	**New Mexico**	$1.66	20th	**West Virginia**	$0.55	44th
Iowa	$1.36	26th	**New York**	$4.35	1st	**Wisconsin**	$2.52	9th
Kansas	$0.79	36th	**North Carolina**	$0.45	45th	**Wyoming**	$0.60	40th

Source: Campaign for Tobacco-Free Kids; http://www.tobaccofreekids.org/research/factsheets/pdf/0097.pdf

Proposition B is on the November 2012 Ballot. The ballot initiative, if passed, would increase the Missouri excise tax from $0.17 to $0.90 per pack, or a 429 percent increase in the Missouri cigarette excise tax. Additionally, Proposition B repeals a provision in the Missouri escrow statute that will cause Non-Participating Manufacturers (hereafter NPMs) to escrow an additional $0.569 per cigarette pack. In doing so, the base price for NPM cigarette brands will increase by $0.569 per pack.[1] The escrow is not a tax per se, but acts like a tax causing the price of the NPM brands to increase. Current law allows NPMs to receive a refund of monies escrowed in excess of the state's share of national tobacco settlement payments and allows NPMs to receive all escrowed monies after 25 years. Proposition B, if implemented, would deny this refund. Thus, when coupled with the cigarette excise tax increase, the additional escrow requirement results in the price of NPM cigarette brands to increase by more than 760 percent.

Proposition B also includes language that affects retail tobacco sales. Specifically, the tax on roll-your-own cigarettes will increase from 10 percent to 35 percent on tobacco sales. Other tobacco products, such as cigars and smokeless products, will be subject to a 25 percent tax rate, 15 percentage points above the current 10 percent rate. Wholesale cigarette sellers apply the state tax stamp. The compensation paid to wholesalers will fall from 3 percent of the face value of the stamp to one-half cent per stamp under Proposition B.

Proposition B specifies where monies from the tax increase are to be distributed. Monies collected from the $0.73 cigarette excise tax increase will not go into the state's general revenue fund. Rather, the state treasury will create a new fund—the Health and Education Trust Fund—and revenues from the excise tax increase are dedicated to that fund. Within the Fund, monies will be allocated into three separate accounts: (1) Tobacco Use Prevention and Quit Assistance Account; (2) Public Education Account; and (3) Public Higher Education Account. Monies generated by the proposed cigarette tax hike will be distributed as follows: 20 percent will be credited to the Tobacco Use Prevention and Quit Assistance Account, 50 percent will be credited to the Public Education Account, and 30 percent will be credited to the Public Higher Education Account.

The bottom line is that if Proposition B passes, cigarette prices in Missouri will increase as sellers pass the tax increase along with the NPMs' per-pack fee along to buyers. With an increase in cigarette prices, the quantity demanded will decline.

[1] Non-Participating Manufacturers are cigarette manufacturers who are not included in the 1998 Master Settlement Agreement. The Master Settlement Agreement (hereafter, MSA) required the states to pass legislation that included a provision that imposed a per-pack fee on non-participating manufacturers. The funds were to be placed in an escrow account and applied against any claims made by a state against a NPM.

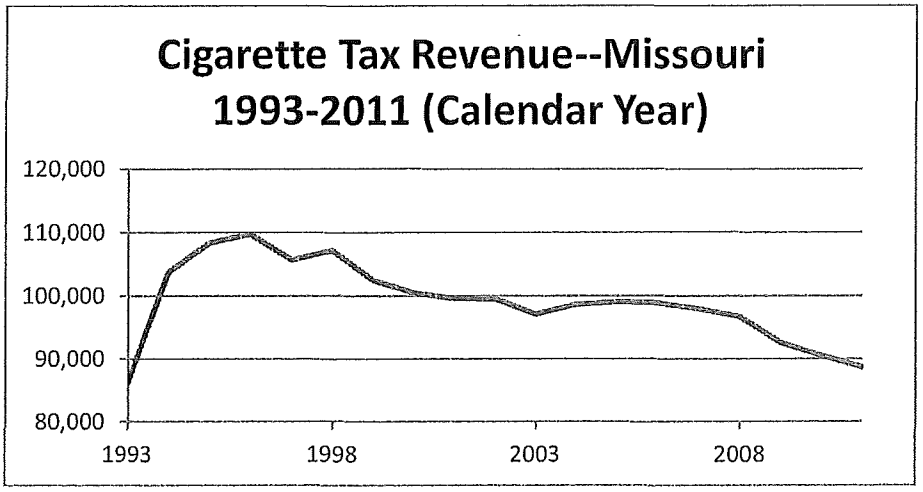
3. Proposition B revenue impact

Effective October 1, 1993, Missouri implemented its $0.17 cigarette tax.[2] Figure 1 plots the cigarette tax revenue by calendar year from 1993 through 2011. The data indicate a sizeable increase between 1993 and 1994, owing partially to fact that the cigarette tax was $0.13 from January 1, 1993, through September 30, 1993.

Figure 1 shows that cigarette tax revenues peaked at nearly $100 million in 1996. There is a modest downward trend present in cigarette taxes collected since 1996. In 1996, Missouri's cigarette excise tax raised $109.7 million. Since 1996, cigarette taxes have, on average, fallen 1.1 percent a year. In 2011, Missouri reported $88.67 million in cigarette taxes collected. Note that the Bureau of Labor Statistics has a price index for cigarettes. According to their data, cigarette prices have increased at average annual rate of 9.1 percent since 1997. The price increases reflect all the factors affecting the equilibrium retail price, including cigarette tax increases.[3]

It is straightforward to compute the number of cigarette packs purchased in Missouri. Divide the cigarette excise tax revenue by the excise tax per pack and the result is the quantity of cigarette packs sold in Missouri. Thus, divide the revenue by 0.17.

Figure 1



[2] See Missouri Revised Statute 140.015.
[3] Other factors would include tobacco costs, labor costs, people's preferences and the like.

Based on the historical cigarette tax revenue collected, the number of packs sold in Missouri peaked in 1996 at over 645 million packs. In 2011, the quantity sold was 521,588,235 packs. Compared with 1996, over 123 million fewer cigarette packs have been purchased in Missouri in 2011.

4. Quantity Effects

The purpose of this section is to compute the expected number of cigarettes sold if the proposed excise tax is implemented.

The Law of Demand says that a good's quantity demanded is negatively related to the price. The Law, however, leaves open the question of how sensitive the quantity demanded is to an increase in the price. In the case of cigarettes, the conventional wisdom is that quantity is not very sensitive to price changes.

In economics parlance, sensitivity is referred to as elasticity. Formally, elasticity is the percentage change in quantity divided by the percentage change in price. To illustrate, suppose the price of a good goes up, say, ten percent and the quantity goes down by three percent. In this example, the elasticity of demand is 0.3. Because the number is less than one, the good's demand is inelastic.[4] When designing a tax system, inelastic goods are desirable precisely because a tax increase creates a smaller distortion in terms of the change in the quantity chosen by consumers.

The demand for cigarettes is believed to be inelastic. It may be true for national markets. The mistake made by state governments is that the measure of the elasticity depends on the definition of the market. For example, at the national market, a countrywide price increase of ten percent may not affect the quantity consumed by people. In contrast, if the price increase is focused on just on a single store, people will be able to avoid the price increase by purchasing their cigarettes at a nearby store. From the perspective of the single, price-raising store, the elasticity of demand is infinity since the quantity purchased will fall to zero. If the market is small geographically, there are more substitutes for cigarettes in that market and the elasticity increases.

States are somewhere between the global market size and the single-location size. Given the price increase that accompanies a tax hike, the implication is that the quantity of cigarettes purchased in Missouri are more sensitive to such a price increase than if the prices of all cigarettes across the country increased.

Assumption 1: The elasticity of demand for Missouri cigarettes is 1.2.

[4] The astute reader will recognize that the elasticity is a negative number since the quantity demanded *decreased* by three percent while the price *increased* by ten percent. It is standard to focus on the absolute value of the elasticity. Hence, throughout this report, I will refer to the elasticity of demand as a positive value.

Assumption 1 plays a critical role in computing the economic impact of Missouri's proposed cigarette excise tax increase. Because the excise tax increase is 429 percent, some consumers will quit smoking. Moreover, consumers presently crossing state lines to purchase lower-priced Missouri cigarettes will do so less frequently. In the case of border areas between Missouri and four states--Kansas, Nebraska, Kentucky and Tennessee—the increase in the Missouri tax will result in Missourians crossing the border into these four states to purchase lower-priced cigarettes. Goolsbee and Slemrod (2004) find that the online sales alternative raises the elasticity of cigarette sales to between 1.2 and 2. Throughout my analysis, I use the lower end of the Goolsbee-Slemrod range. My principal reason is that 1.2 is a conservative estimate of the elasticity of state cigarette purchases in Missouri. An elasticity of 2 is plausible, but with changes to the Jenkins Act, it is more plausible to use the more conservative value.

With an elasticity value, we need three additional values to compute the quantity of Missouri cigarettes sold under the proposed excise tax. Specifically, we need to know the current quantity of cigarettes sold in Missouri, the current price of Missouri cigarettes and the projected price of Missouri cigarettes with the proposed excise tax implemented.

To obtain the quantity of cigarette packs sold in Missouri, we use the amount of taxes collected in Missouri and divide that revenue figure by $0.17, which is the current cigarette excise tax. In calendar year 2011, the Department of Revenue reported that it collected $88,670,000 in cigarette excise taxes. At $0.17 per pack, this implies that 521,588,235 cigarette packs were purchased in Missouri.[5]

The current consumer price is obtained from the report, *The Tax Burden on Tobacco, Vol. 46 (2011)*. Not all cigarettes packs have the same price. Instead a weighted average price is reported using quantity and price data for the different cigarettes sold in Missouri.[6] In 2011, the weighted average price was $4.30 in Missouri. With a $0.17 excise tax, the pre-tax price of Missouri cigarettes is $4.30 - $0.17 = $4.13. Note that the pre-tax price is relevant because Missouri collects sales tax on cigarette prices, which is computed as the product of the pre-state-excise-tax price and the sales tax rate.

Assumption 2: All cigarette excise taxes are passed through completely to consumers.

With Assumption 2, it is straightforward to compute the consumer price of cigarettes for the case in which the proposed excise tax is implemented. I use as the initial consumer price of cigarettes in Missouri. By Assumption 2, I add $0.73 to the current consumer price. In addition, the fee charged on NPM's cigarettes is $0.569. In Missouri, 23 percent of the cigarettes purchased are from NPMs. Thus, with Proposition B

[5] The arithmetic is $88,670,000/$0.17 which equals the number of cigarette packs.
[6] See Table 14 on p. 186.

passing, the price is \$4.30 + \$0.73 + (0.23)*(\$0.569). Correspondingly, the consumer price must account for the market share of NPM cigarettes times the fee applied on those cigarettes. The projected Missouri cigarette price is \$5.16 per pack if Proposition B passes.

With the current price, the price including the higher state excise tax and fees, the current quantity and the elasticity of demand for cigarettes, we can compute the expected number of cigarettes sold in Missouri if the cigarette excise tax is raised from \$0.17 to \$0.90. The equation is the arc elasticity formula, represented as

$$\varepsilon = \frac{q_2 - q_1}{(q_2 + q_1)/2} \div \frac{p_2 - p_1}{(p_2 + p_1)/2}$$

where ε is the elasticity of cigarette demand, q_2 is the quantity of cigarettes sold with the proposed increase in the cigarette excise tax, q_1 is the quantity of cigarettes sold in 2011, p_2 is the price of cigarettes with the proposed increased in the cigarette excise tax and p_1 is the price of cigarettes in 2011. With excise taxes increasing 429 percent, the effect on consumer prices is an 18 percent increase. With the proposed increase in the cigarette excise tax, I compute that the expected number of cigarettes purchased in Missouri will fall from 521,588,235 packs a year to 429,360,450 packs in the first year after the excise tax increase is implemented. Thus, the quantity of cigarettes purchased in Missouri is expected to decrease by 92,227,785 packs

Comparison with Missouri State Auditor's Office Fiscal Note

In the January 30, 2012 fiscal note, officials from the Office of Administration (hereafter, BAP) computed the expected revenue impact with a \$0.73 increase in the cigarette excise tax implemented. Table 2 reports the values for the price elasticity of cigarettes, the current price, the current quantity, the expected price if the \$0.73 excise tax were implemented, and the expected quantity if Proposition B passes for both the baseline model and the BAP.

Table 2

Variable	Baseline	BAP
q_1	521,588,235	529,211,235
p_1	\$4.30	\$4.50
p_2	\$5.16	\$5.23
E	1.2	0.8
q_2	429,360,450	469,281,167

There are some minor differences that arise because BAP used Fiscal Year while the Baseline uses calendar year values for the initial quantities. In addition, BAP uses $4.50 as the initial price instead of the $4.30 *Tax Burden on Tobacco* report. Lastly, BAP uses a smaller price elasticity of demand for cigarettes. Overall, the change in cigarettes purchased in Missouri falls by approximately 60 million packs according to the BAP analysis while my baseline model calculates the expected number of packs purchased in Missouri to decrease by approximately 92 million packs.

One factor plays the largest role in accounting for the discrepancy between my findings and those presented by BAP in the State Auditor's Fiscal Note. The most important difference is the value of the elasticity of cigarette demand. BAP offers no economic justification for using the elasticity of cigarette being equal to 0.8. Instead, they reference the elasticity estimates by Campaign for Tobacco Free Kids equal to 0.4 and the Goolsbee and Slemrod value of 1.2, picking the midpoint of those two estimates. A key problem with settling on the midpoint is that the Campaign for Tobacco Free Kids estimate is consistent with the elasticity of cigarette demand in the national market. Here, the appropriate measure of market is the state. Therefore, a greater elasticity value is justified in this analysis.

It follows immediately that with two different quantities, the fiscal impacts on state revenues will be different. According to BAP's calculations, Missouri should expect to receive an additional $332,387,140 in cigarette tax revenue in Year 1 of the cigarette excise tax increase. With the higher elasticity of cigarette demand, my calculations indicate that Year 1 expected additional cigarette excise tax revenues are $313,433,128. Thus, with a more reasonable elasticity value, the expected gains in cigarette excise tax revenues will decline by nearly $19 million.

4.1 Revenue implications for new and existing state funds

Currently, cigarette excise tax revenues are allocated between three funds. The State School Money Fund receives $0.09 per pack sold in Missouri while the Health Initiatives Fund and the Fair Share Fund each receive $0.04 per pack. Proposition B specifies that these three funds will be held harmless. Indeed, stipulates that monies from the $0.73 cigarette excise tax will be allocated to each fund so that the hold-harmless condition is satisfied. The transfer cannot exceed 3 percent of the new additional revenues.

The baseline model expects that annually 92 million fewer packs of cigarettes will be purchased in Missouri if the $0.73 excise tax increase is implemented. Multiplying the reduction in cigarette packs purchased in Missouri by $0.17, we know the expected reduction in monies allocated to the three existing funds; the expected reduction is $15,678,723 per year. According to the cap on amounts transferred from new revenues, the maximum transfer amount is 0.03 times $313,577,020, which equals $9,402,994 per

year. The difference between the hold-harmless amount and the transfer cap is $6,275,730 per year. If the difference is allocated among the three existing funds by the allocation formula, then the State School Money Fund will see its funding allocation decline from the cigarette excise tax by $3,322,445 per year. In addition, the Health Initiatives Fund and the Fair Share Fund will each see their funding allocation from the cigarette excise tax decline by $1,476,642 per year.

Monies from the $0.73 increase in the cigarette excise tax are dedicated to a newly created Health and Education Trust Fund. Additional costs associated with implementing the increase in the cigarette excise tax are to be paid from this fund. The additional costs cannot exceed 1.5 percent of the revenues from the $0.73 excise tax increase. Of the net proceeds—that is, the revenues collected from the $0.73 excise tax increase less the hold-harmless transfer less the additional actual costs—are apportioned among three accounts. The Tobacco Use Prevention and Quit Assistance Account is credited 20 percent of the new excise tax monies, the Public Education Account receives 50 percent, and the Public Higher Education Account receives 30 percent. Based on the expected new monies calculated in the baseline model, the Tobacco Use Prevention and Quit Assistance Account will receive 0.2 times $299,328,637 per year, which equals $60,491,180 per year. Meanwhile the expected monies credited to the Public Education Account will be $151,227,951 per year and the Public Higher Education Account is expected to be credited $90,736,771 per year.

4.2 Sales Tax Revenues

Missouri collects sales tax on cigarettes purchased in Missouri. The state sales tax is $0.04225 per dollar of cigarette sales. The sales tax rate is applied to the pre-excise tax price of the cigarette pack. With a decline in the number of packs purchased in Missouri, sales tax collection will decline. Of the $0.04225 per dollar, three cents is placed in Missouri General Revenue, 1/8 cent is dedicated to Conservation, $0.01 to Education, and $0.001 to Parks and Soil.

Assumption 3: Foregone cigarette purchases are not spent on items subject to Missouri sales tax.

Hereafter, I will refer to the calculations based on this model as the baseline model. The baseline model takes the difference between the current and Proposition B quantity of cigarette purchased in Missouri. I multiply this difference by the price of cigarettes subject to the sales tax by the sales tax rate. I find that the expected decline in state sales tax is $16,093,057. Of this amount, there will be an expected reduction in General Revenue equal to $11,427,023 less state sales tax monies collected per year.

In addition, the sales tax monies dedicated to Education will decline by $3,809,008 per year, sales tax monies dedicated to Conservation will decline by $476,126 per year and sales tax monies dedicated to

Table 3

Annual State Revenue Picture with

Cigarette Excise Tax Increase Implemented

New Revenues	
$0.73 excise tax increase	$313,433,128
less hold harmless transfer	$9,402,994
less actual cost	$4,701,497
equals net new revenues	$299,328,637
Revenue Losses	
State Sales Tax	$16,093,057
equals General Revenue	$11,427,023
plus Education	$3,809,008
plus Conservation	$476,126
plus Parks/Soils	$380,901

Source: author's calculations

Parks and Soil will fall by $380,901 per year.

Table 3 provides an overview of the annual impact to state revenue if the cigarette excise tax increases from $0.17 to $0.90.

5. County and Municipal Revenue Impacts

In this section, I examine the effects that changes in the cigarette excise tax will have on political subdivisions within Missouri. In the baseline model, there is no assumption regarding the distribution of cigarette purchases within Missouri. In other words, the analysis focuses on the statewide impact.

What is the distribution of cigarette purchases in Missouri by county? Direct measurement is not possible since the tax data are not compiled at the county or city level. Therefore, I must make an assumption in order to pin down distribution of cigarettes purchased in each of Missouri's 114 counties and St. Louis City.[7]

Assumption 4: Cigarette purchases per Missourian are constant.

[7] The federal excise tax is applied to cigarette manufacturers. Thus, the state and local sales taxes are generally applied to the wholesale cigarette price, which already includes the federal excise tax. However, state and local sales taxes are applied against the sales price less the state excise taxes.

Because Missouri currently has the lowest cigarette excise tax in the nation, it is natural to expect that Missouri sells cigarettes to people living outside Missouri. Hence, the distribution of population along Missouri's border plays a big role in determining the distribution of cigarette sales inside Missouri. Assumption 4 embodies the population of people living along the Missouri border in the sense that if large numbers of out-of-state buyers are coming to Missouri to purchase cigarettes, there will be employment in those Missouri stores. Insofar as population is positively related to employment, population in the Missouri counties will mirror cigarette buying out-of-state folks. Therefore, I assume cigarette purchases per Missourian is a constant and is a reasonable proxy for cigarette purchases by county.

Appendix 1 is a table with population data for all 114 counties in Missouri and the City of St. Louis. The population data are 2011 levels taken from the United States Census Bureau. We know the quantity of cigarettes purchased in Missouri. Divide the quantity by the county weight, where the weight is simply the fraction of Missouri's state population. If the proposed cigarette excise tax is implemented, there will be a decrease in the quantity of cigarettes purchased in Missouri. I use the expected decrease in cigarette purchases statewide and allocate that decline by the population of people living in each Missouri county. In other words, each county's population weight is multiplied by the expected quantity of cigarettes purchased in Missouri. For example, if County X has 10 percent of the Missouri population and statewide cigarettes sales decline by 50 million packs because of the cigarette excise tax increases, then cigarettes purchased in County X would fall by 5 million packs.

To compute the expected decline county sales tax revenues, we need the decrease in the number of cigarette packs sold. Next, multiply the decrease in the number of cigarette packs sold in the county by the pre-excise tax price per pack, which is $4.13. The resulting product is the measure of sales lost by county. Finally, I multiply the lost sales by the county sales tax rate to obtain the expected decline in county sales tax revenues.

Table 4 reports the county sales tax rate and the expected decrease in sales tax revenue for each county in Missouri. By far, the largest decline in expected sales tax revenue occurs in St. Louis County. With nearly 1 million inhabitants, or $1/6^{th}$ of Missouri's population, St. Louis County would see cigarette purchases decline by over 15.2 million packs. At $4.13 per pack, this amounts to annual cigarette sales falling by over $64 million. In St. Louis County, the sales tax rate is 2.95, resulting in sales tax revenue falling by over $1.86 million per year.[8]

[8] The baseline model is subject to forecast errors. For example, St. Louis City collects a city excise tax. For Fiscal Year 2011, it is possible to back out the number of cigarette packs purchased in St. Louis City from the city excise

Table 4

Expected Annual Sales Tax Revenue Decreases

By County With Proposition B Passing

County Sales Tax Rate	County	Decrease in Annual County Sales Tax Revenue
0.01	Adair	$ 16,192.45
0.017	Andrew	$ 18,525.25
0.0225	Atchison	$ 7,940.49
0.01875	Audrain	$ 30,377.48
0.0125	Barry	$ 27,948.01
0.01	Barton	$ 7,811.69
0.01	Bates	$ 10,778.07
0.01375	Benton	$ 16,655.77
0.01625	Bollinger	$ 12,723.86
0.0125	Boone	$ 131,198.48
0.011	Buchanan	$ 62,499.86
0.01	Butler	$ 27,301.31
0.02	Caldwell	$ 11,805.94
0.01	Callaway	$ 28,149.21
0.0125	Camden	$ 34,599.54
0.01	Cape Girardeau	$ 48,562.14
0.0125	Carroll	$ 7,620.31
0.01	Carter	$ 4,033.54
0.0125	Cass	$ 79,254.41
0.01	Cedar	$ 8,838.93
0.02	Chariton	$ 9,802.16
0.0175	Christian	$ 87,132.96
0.02	Clark	$ 8,895.96
0.00875	Clay	$ 124,850.09
0.01	Clinton	$ 13,174.11
0.015	Cole	$ 72,668.31
0.0175	Cooper	$ 19,588.00
0.0175	Crawford	$ 27,502.83
0.0175	Dade	$ 8,657.85
0.02	Dallas	$ 21,227.88

tax receipts. The data are consistent with 66.16 million cigarette packs sold in St. Louis City in Fiscal Year 2011. The baseline model assigns St. Louis City 27.6 million packs by its population share. Note that expected sales tax revenue decrease is not necessarily affected by the initial quantity of packs, rather the change in the packs purchased in St. Louis City matters.

0.015	Daviess	$	7,901.99
0.01	DeKalb	$	8,090.52
0.01	Dent	$	9,933.97
0.01	Douglas	$	8,585.45
0.01	Dunklin	$	20,262.11
0.0175	Franklin	$	113,047.72
0.01375	Gasconade	$	13,216.57
0.01	Gentry	$	4,300.33
0.01125	Greene	$	197,631.12
0.015	Grundy	$	9,722.31
0.0125	Harrison	$	7,023.04
0.01	Henry	$	14,080.31
0.015	Hickory	$	9,151.98
0.025	Holt	$	7,626.65
0.025	Howard	$	16,165.83
0.009375	Howell	$	24,153.10
0.015	Iron	$	10,129.15
0.01125	Jackson	$	482,189.87
0.00975	Jasper	$	73,176.62
0.01625	Jefferson	$	226,014.32
0.025	Johnson	$	84,661.50
0.02	Knox	$	5,229.34
0.01	Laclede	$	22,582.74
0.01625	Lafayette	$	34,197.69
0.015	Lawrence	$	36,710.57
0.02375	Lewis	$	15,283.79
0.0175	Lincoln	$	58,860.49
0.01	Linn	$	7,963.15
0.0075	Livingston	$	7,164.36
0.02	McDonald	$	29,121.31
0.01375	Macon	$	13,585.15
0.015	Madison	$	11,592.06
0.0166667	Maries	$	9,686.21
0.01125	Marion	$	20,472.89
0.0225	Mercer	$	5,423.89
0.01	Miller	$	15,696.89
0.0175	Mississippi	$	15,865.14
0.015	Moniteau	$	14,920.92
0.1	Monroe	$	55,347.86
0.0175	Montgomery	$	13,607.25
0.01	Morgan	$	12,992.24

0.01	New Madrid	$	11,902.90
0.00875	Newton	$	32,390.13
0.01	Nodaway	$	14,871.81
0.01	Oregon	$	6,981.54
0.0175	Osage	$	15,431.53
0.015	Ozark	$	9,120.61
0.0125	Pemiscot	$	14,396.21
0.01875	Perry	$	22,624.48
0.01	Pettis	$	26,728.44
0.00875	Phelps	$	24,963.25
0.02	Pike	$	23,538.37
0.01375	Platte	$	79,207.91
0.01	Polk	$	19,752.61
0.0075	Pulaski	$	25,272.98
0.02	Putnam	$	6,309.17
0.02	Ralls	$	13,030.26
0.01	Randolph	$	16,061.91
0.015	Ray	$	22,081.48
0.01	Reynolds	$	4,174.85
0.015	Ripley	$	13,443.75
0.01725	St. Charles	$	399,162.04
0.005	St. Clair	$	3,054.78
0.02	Ste. Genevieve	$	22,970.57
0.0125	St. Francois	$	51,945.65
0.0295	St. Louis	$	1,866,986.73
0.01625	Saline	$	23,973.09
0.02	Schuyler	$	5,552.53
0.0125	Scotland	$	3,824.41
0.01	Scott	$	24,800.71
0.01	Shannon	$	5,343.41
0.015	Shelby	$	5,969.51
0.01	Stoddard	$	18,888.87
0.0175	Stone	$	35,779.18
0.0275	Sullivan	$	11,604.58
0.01625	Taney	$	54,306.05
0.015	Texas	$	24,653.69
0.01	Vernon	$	13,284.37
0.02	Warren	$	41,209.88
0.025	Washington	$	39,727.01
0.01	Wayne	$	8,539.18
0.01833	Webster	$	41,165.33

0.01875	Worth	$	2,554.63
0.01	Wright	$	11,860.44
0.04516	St. Louis City	$	910,254.68
	County Sales Tax Loss Total	$	6,769,380.76

Source: Sales tax rates are obtained from Missouri Department of Revenue's *Sales and Use Tax Rate Changes Report* and the author's calculations.

Table 4 also shows that Worth County, with a population of 2,150 inhabitants and a sales tax rate at 1.875 percent is expected to see county sales tax revenue decrease by more than $2,500 per year if higher cigarette excise tax is implemented.

Population is the primary variable that accounts for the expected sales tax revenue decline; large population centers are expected to have the largest cigarette purchases. However, the county sales tax rate varies across counties. St. Louis City has the highest sales tax rate at 4.516 percent while Pulaski County has the lowest rate at 0.85 percent.

Table 5 reports the ten counties with the largest expected sales tax revenue decline given the passage of Proposition B. Nine counties are expected to realize a sales tax revenue decline that exceed $100,000.

Table 5

Ten Missouri Counties with Largest Expected Annual

Decreases in Sales Tax Revenues with Proposition B Passing

County	Expected Annual Sales Tax Revenue Decline
St. Louis	$1,866,987
St. Louis City	$910,255
Jackson	$482,190
St. Charles	$399,162
Jefferson	$226,014
Greene	$197,631
Boone	$131,198
Clay	$124,850
Franklin	$113,048
Christian	$87,133
Total Sales Tax Decrease for 10 Largest Counties	$4,538,468

Source: author's calculations

To put some perspective on the expected decline, it would be useful to know what the revenues are for some of these counties. For example, Governmental Activities Revenues are $660.5 million in 2011 for St. Louis County. Thus, the expected decline in sales tax revenues is 0.3 percent of the County's budget. In Boone County, Government Activity Revenues are $47.7 million. The expected sales tax revenue decline is also 0.3 percent. Meanwhile, the Greene County budget is $34.5 million per year so that the expected sales tax revenue decline is nearly 0.6 percent of the county budget. The expected sales tax revenue decline is not a large fraction of county revenues, but in a period in which county budgets are struck by other declines, a decline in sales tax revenues will further stress these counties to maintain their programs.

5.1 Border Effects

In the county-level analysis, Assumption 4 holds that the quantity of purchases is based on a per-Missourian basis. In other words, the decline in cigarette purchases is distributed evenly among Missourians.

Assumption 4 notably ignores the transaction cost borne by non-Missourians who purchase cigarettes in Missouri presently because the excise tax is low. Put another way, Kansans are unlikely to drive to Cole County (Jefferson City) to buy cigarettes. Rather, they will drive to Jackson County. If the cigarette excise tax increase is implemented, that flow of out-of-state purchases will stop as the Kansas excise tax will be lower than Missouri's excise tax.

One way to approach this is to alter the weight associated with each county's cigarette sales. In the baseline model, the weight is the ratio of the county's population to the state's population. To compute the county's share of the reduction in cigarette packs purchased in Missouri, I take the weight and multiply it by the state's expected quantity of cigarette packs after the implementation of a $0.73 increase in the state excise tax. If a county's weight decreases, for example, then the expected share of state's cigarette purchased in that county will decline. In other words, that county will realize a larger share of the reduction in state cigarette purchases than its population would have predicted.

To incorporate a change in county weights, I take as given the statewide expected quantity of cigarette packs purchased after implementing the higher state excise tax. This means that the county weights must continue to sum to one. If a county receives a smaller weight because it is on the border, then non-border counties must receive a larger weight.

In this analysis, I construct a set of weights such that imposes three conditions: First, to address the sensitivity of price changes on cigarette purchases in counties that border Kansas, Nebraska, Kentucky

and Tennessee, I construct a set of county weights that apply smaller weight to those border counties that are contiguous with those four states. Second, I construct those county weights so that the sum across all the Missouri counties is one. Third, approximately 25 percent of Missouri's population is from the sixteen counties that border the same four states. In the baseline model, these sixteen counties account for approximately 25 percent of the decline in cigarette purchases by construction. In the border-sensitivity analysis, I construct the county weight such that 33 percent of the reduction in cigarettes purchased across the state falls upon those counties bordering Kansas, Nebraska, Kentucky, and Tennessee. In other words, these border counties will account for one-third of the expected 92-million reduction in cigarette packs purchased in Missouri.

Table 6 reports the counties that are contiguous to at least one of the four states that will have lower cigarette excise taxes than Missouri if Proposition B passes. In addition, the population for each of these sixteen counties is included. Table 6 shows that there are nearly 1.5 million inhabitants in these sixteen counties.

Missouri's total population is slightly above 6 million according to the 2011 Census Bureau reports. Hence, the sixteen counties account for 24.8 percent of Missouri total population.

To raise the cigarette purchases in the sixteen contiguous counties to 33 percent of total purchases, I modify the county weights for the border counties according to the following formula.

$$\frac{pop_i}{\sum_{j=1}^{115} pop_j} - \frac{99}{115} * k$$

Note that the first term is simply the population weight for a particular county, the ratio 99 divided by 115 is the proportion of counties contiguous to the four states with lower cigarette excise taxes if Proposition B passes, and the term k is a constant that is set so that the sixteen contiguous counties account for 33 percent of the cigarettes purchased in Missouri.[9]

Alternatively, the county weights for the non-contiguous counties is

$$\frac{pop_i}{\sum_{j=1}^{115} pop_j} + \frac{16}{115} * k$$

[9] The equation represents a modification to the county weight that is an additive constant. Note that this additive transformation to the county weight means that the smaller population counties will experience a disproportionate larger change to their county environment while large population counties will realize a disproportionately smaller change to their county weight.

It is straightforward to verify that the sum of the modified county weights sum to one. By setting $k = 0.00125$, the fraction of cigarettes sold in the sixteen contiguous border counties accounts for 33 percent of total change in cigarettes purchased in Missouri.

Table 6

List of Missouri Counties

Contiguous to Kansas, Nebraska, Kentucky, or Tennessee

County	Population
Atchison	5,569
Holt	4,814
Andrew	17,196
Buchanan	89,666
Platte	90,903
Clay	225,161
Jackson	676,360
Cass	100,052
Bates	17,008
Vernon	20,963
Barton	12,327
Jasper	118,435
Mississippi	14,306
New Madrid	18,783
Newton	58,414
Pemiscott	18,174
Total Population for 16 counties	1,488,131

Table 7 reports the expected sales tax revenue decreases for each Missouri county with the modified county weights. Note one consequence associated with the modified county weights, some smaller counties will see their expected sales tax revenue increase. Knox, Mercer, Schuyler, Scotland, and Worth counties realize a small expected sales tax revenue gain because they are away from the border. Holding the change in statewide cigarettes constant, and redistributing the losses toward the border counties, the arithmetic shifts the change in sales toward the non-contiguous counties, even resulting in some gains in small counties.

Table 7

Expected Sales Tax Revenue Decreases by County

With Proposition B Passing and Modified County Weights

County	Decrease in Annual Sales Tax Revenue
Adair	$ 13,108.52
Andrew	$ 50,964.32
Atchison	$ 50,874.55
Audrain	$ 24,595.11
Barry	$ 24,093.10
Barton	$ 26,893.50
Bates	$ 29,859.87
Benton	$ 12,415.37
Bollinger	$ 7,712.48
Boone	$ 127,343.57
Buchanan	$ 83,489.85
Butler	$ 24,217.38
Caldwell	$ 5,638.08
Callaway	$ 25,065.28
Camden	$ 30,744.63
Cape Girardeau	$ 45,478.21
Carroll	$ 3,765.40
Carter	$ 949.61
Cass	$ 103,106.67
Cedar	$ 5,755.00
Chariton	$ 3,634.30
Christian	$ 81,736.08
Clark	$ 2,728.11
Clay	$ 141,546.67
Clinton	$ 10,090.18
Cole	$ 68,042.41
Cooper	$ 14,191.13
Crawford	$ 22,105.96
Dade	$ 3,260.97
Dallas	$ 15,060.02
Daviess	$ 3,276.10
DeKalb	$ 5,006.59
Dent	$ 6,850.04
Douglas	$ 5,501.52
Dunklin	$ 17,178.18

Franklin	$	107,650.84
Gasconade	$	8,976.17
Gentry	$	1,216.40
Greene	$	194,161.70
Grundy	$	5,096.42
Harrison	$	3,168.13
Henry	$	10,996.38
Hickory	$	4,526.09
Holt	$	55,331.16
Howard	$	8,456.01
Howell	$	21,261.92
Iron	$	5,503.26
Jackson	$	503,656.90
Jasper	$	91,781.38
Jefferson	$	221,002.94
Johnson	$	76,951.68
Knox	$	(938.52)
Laclede	$	19,498.81
Lafayette	$	29,186.31
Lawrence	$	32,084.68
Lewis	$	7,959.47
Lincoln	$	53,463.62
Linn	$	4,879.22
Livingston	$	4,851.41
McDonald	$	22,953.46
Macon	$	9,344.74
Madison	$	6,966.17
Maries	$	4,546.32
Marion	$	17,003.47
Mercer	$	(1,514.95)
Miller	$	12,612.96
Mississippi	$	49,258.30
Moniteau	$	10,295.03
Monroe	$	24,508.58
Montgomery	$	8,210.37
Morgan	$	9,908.31
New Madrid	$	30,984.70
Newton	$	49,086.71
Nodaway	$	11,787.88
Oregon	$	3,897.61
Osage	$	10,034.65

Ozark	$	4,494.72
Pemiscot	$	38,248.47
Perry	$	16,842.12
Pettis	$	23,644.51
Phelps	$	22,264.82
Pike	$	17,370.51
Platte	$	105,445.39
Polk	$	16,668.68
Pulaski	$	22,960.03
Putnam	$	141.32
Ralls	$	6,862.40
Randolph	$	12,977.98
Ray	$	17,455.58
Reynolds	$	1,090.93
Ripley	$	8,817.86
St. Charles	$	393,842.27
St. Clair	$	1,512.81
Ste. Genevieve	$	16,802.71
St. Francois	$	48,090.74
St. Louis	$	1,857,889.14
Saline	$	18,961.71
Schuyler	$	(615.33)
Scotland	$	(30.50)
Scott	$	21,716.78
Shannon	$	2,259.48
Shelby	$	1,343.62
Stoddard	$	15,804.94
Stone	$	30,382.31
Sullivan	$	3,123.78
Taney	$	49,294.66
Texas	$	20,027.80
Vernon	$	32,366.18
Warren	$	35,042.03
Washington	$	32,017.19
Wayne	$	5,455.26
Webster	$	35,512.49
Worth	$	(3,227.74)
Wright	$	8,776.51
St. Louis City	$	896,327.66
Total County Annual Sales Tax Revenue Loss	$	6,684,847.26

Source: author's calculations

In addition, other non-contiguous counties would see the decline in their expected sales tax decreases become smaller as the distribution of cigarette purchases in Missouri shifts away from the contiguous counties. For example, in the baseline model, St. Louis City is expected to see sales tax revenues decrease by more than $910,000 per year. In the modified border county model, the expected sales tax revenue decrease is smaller, declining by $896,000 per year.

Table 8 reports the expected sales losses in the baseline and the modified border county models for the sixteen counties. Most of the counties contiguous to Kansas, Nebraska, Kentucky and Tennessee are small in terms of population. The nature of the modified border county weight affects these small population counties disproportionately. Consequently, Table 8 shows that the expected sales tax revenues

Table 8

Expected Annual Sales Tax Loss Comparing

Baseline Model to Modified Border Model

County	Expected Annual Loss (Baseline)	Expected Annual Loss (Mod Border)
Andrew	$18,525	$50,964
Atchison	$7,940	$50,875
Barton	$7,812	$26,894
Bates	$10,788	$29,860
Buchanan	$62,500	$83,490
Cass	$79,254	$103,107
Clay	$124,850	$141,547
Holt	$7,627	$55,331
Jackson	$482,190	$503,657
Jasper	$73,177	$91,781
Mississippi	$15,865	$49,258
New Madrid	$11,903	$30,985
Newton	$32,390	$49,087
Pemiscott	$14,396	$38,248
Platte	$79,208	$105,445
Vernon	$13,284	$32,366

Source: author's calculations

will decrease substantially more when the border effect is taken into account. For example, Andrew and Atchison counties are expected to see county sales tax receipts decline by more than $50,000 per year

with a strong border effect. Compared with expected sales tax receipts with no strong border effect, expected county sales tax receipts fall by approximately $18,000 per year in Andrew and less than $8,000 per year in Atchison when no border effect is considered.

If the distribution of expected sales tax losses is too heavily shifted to small counties, there is another way to look at things. Instead of county-by-county, suppose one is interested in the sum of the expected sales tax losses across the sixteen border counties. With no strong border effect, the expected sales tax losses total $1,041,709. With a strong border effect, expected sales tax losses total $1,442,895. Thus, with greater border sensitivity, expected sales tax losses in those sixteen border counties increase by about $400,000.

It is possible to construct a variety of *ad hoc* distributions such that the extra $400,000 in expected sales tax revenues is distributed differently across the border counties. For example, Jackson County accounts for roughly 40 percent of the population in these sixteen border counties. Suppose one were to allocate the extra $400,000 in expected sales tax revenue decreases by population. Jackson County's expected sales tax revenue decrease would be $482,000 per year with no border effect. In contrast, with a strong border effect and the distribution of expected sales taxes consistent with population centers, Jackson County's expected sales tax revenue decrease would rise to $660,000 per year.

5.2 City Sales Tax Revenues

With cities in Missouri also applying sales tax rates, a reduction in cigarette sales will also affect municipal sales tax receipts. Here, I use the baseline model developed for the county-level analysis to calculate expected sales tax losses at the city-level.

Table 9 reports the expected decline in city sales tax rates and receipts for Missouri cities with population exceeding 20,000 inhabitants. The municipal tax rates range from 0.5 percent in Wildwood to 3 percent in Maryland Heights. The Baseline City model indicates that the expected decline in sales tax revenue is over $837,000 for Kansas City. Kansas City collects slightly less than $138 million in sales tax revenues so that the reduction accounts for about 0.6 percent of revenues from this source. Overall, seven Missouri cities (excluding St. Louis City) would see expected sales tax revenues decrease by more than $100,000. Springfield collects nearly $111 million in city sales taxes, so with a decrease in sales tax receipts equal to nearly $215,000 accounts for about 0.2 percent of sales tax receipts. The total expected annual decrease in city sales tax receipts across the 20 largest municipalities is $2.6 million.

Table 9

Expected Annual Sales Tax Revenue

Decreases By City With Proposition B Passing

Sales Tax Rate	Municipality	Decrease in Annual City Sales Tax Revenue
0.02	Columbia	$ 137,514
0.02375	St. Joseph	$ 115,558
0.0275	Cape Girardeau	$ 66,119
0.025	Liberty	$ 46,180
0.02	Jefferson City	$ 54,599
0.02125	Springfield	$ 214,784
0.015	Blue Springs	$ 49,976
0.02	Grandview	$ 31,020
0.0225	Independence	$ 166,581
0.02875	Kansas City	$ 837,688
0.0225	Lee's Summit	$ 130,270
0.0275	Raytown	$ 51,455
0.02625	Joplin	$ 83,423
0.0125	Arnold	$ 16,483
0.02375	Sedalia	$ 32,189
0.02	O'Fallon	$ 100,542
0.015	St. Charles	$ 62,541
0.016	St. Peters	$ 53,307
0.025	Wentzville	$ 46,055
0.0075	Florissant	$ 24,790
0.01	Chesterfield	$ 30,091
0.015	Hazelwood	$ 24,622
0.015	Kirkwood	$ 26,178
0.03	Maryland Heights	$ 52,227
0.01	Ballwin	$ 19,267
0.03	University City	$ 67,244
0.02	Webster Groves	$ 28,257
0.005	Wildwood	$ 11,254
	Total for Largest Municipalities	$ 2,580,214

Source: author's calculations

The point is that the loss may not be a sizeable portion of the sales tax receipts. However, the expected losses in the current economic environment are challenges for cities that see revenues decline and program cutbacks.

5.3 City and County Excise Tax

In addition, many cities and both St. Louis and Jackson counties in Missouri impose an excise tax on cigarettes.[10] Table 10 reports the decrease that would occur for selected city and county cigarette excise taxes if Proposition B passes. I have also divided the local political subdivisions into regions around the state. Table 10 uses the calculated expected change in cigarette sales from the baseline model. For the selected cities and counties included in Table 10, the range of excise tax is from $0.02 in Poplar Bluff to $0.10 in St. Charles, Kansas City, Lee's Summit, and Columbia.

Some of the most notable annual decreases are expected to occur in the St. Louis and Kansas City regions. Both St. Louis City and St. Charles would expect their cigarette excise tax receipts to decrease by more than $300,000 and $100,000 per year, respectively. Kansas City is expected to suffer the largest decrease in city excise tax, losing more than $700,000 in cigarette excise taxes per year if Proposition B passes. Lee's Summit is expected to have their cigarette excise tax decrease by more than $140,000 per year. St. Louis County and Jackson County are expected to see excise tax receipts decrease by more than $500,000 per year each. Overall, the St. Louis and Kansas City regions expect excise tax receipts to decrease by $1.2 million and $1.5 million per year, respectively.

Springfield and Columbia are the other Missouri cities that expect cigarette excise taxes to decrease by more than $100,000 per year. For the selected group of cities and counties with excise taxes included in Table 10, the total decrease in excise tax collections is $3.2 million per year.

5.4 Funds Harmed by Proposition B

Three types of funds are harmed if Proposition B passes. In each of these three cases, receipts are expected to decrease precisely because the proposed $0.73 increase in Missouri cigarette prices induces a decline in the quantity of cigarettes purchased in Missouri. First, there is the set of funds to which the

[10] In the case of St. Louis City, the baseline model underpredicts the initial quantity of cigarettes purchased while the baseline model overpredicts the initial quantity for Jackson County. For Fiscal Year 2011, the excise tax implies that 47.48 million packs were purchased in Jackson County. The baseline model assigns the quantity of cigarette packs purchased in Jackson County to be 58.7 million packs.

Table 10

Expected Annual Reduction in Local Cigarette

Excise Tax Receipts with Proposition B Passing

City or County	Expected Annual Decrease in Cigarettes	Excise Tax	Expected Annual Decrease in Excise Tax Revenues
St. Louis Region:			
St. Louis City	4,880,440	$0.07	$341,631
St. Charles City	1,009,541	$0.10	$100,954
St. Peters City	806,709	$0.05	$40,335
St. Louis County	15,323,895	$0.05	$766,195
Regional Total			$1,249,115
Kansas City Region:			
Kansas City	7,054,956	$0.10	$705,496
Independence	1,729,635	$0.05	$86,482
Blue Springs	806,709	$0.04	$32,268
Lee's Summit	1,401,886	$0.10	$140,189
St. Joseph	1,178,160	$0.05	$58,908
Jackson County	10,378,044	$0.05	$518,902
Regional Total			$1,542,245
Southwest Region:			
Springfield	2,447,332	$0.05	$122,367
Joplin	769,500	$0.04	$30,780
Regional Total			$153,147
Southeast Region:			
Cape Girardeau	582,165	$0.03	$17,465
Poplar Bluff	261,200	$0.02	$5,224
Regional Total			$22,689
Central Region:			
Columbia	1,664,820	$0.10	$166,482
Rolla	300,113	$0.05	$15,006
Kirksville	268,596	$0.05	$13,430
Regional Total			$194,917
	Statewide excise total		$3,162,113

Source: author's calculations

current $0.17 state cigarette excise tax is dedicated. Second, there are sales tax receipts paid to the state, county and municipalities. Third, there are local cigarette excise taxes paid to counties and cities.

Table 11 summarizes the expected annual decrease in each of the three types of harmed funds. By adding across the three types of harmed funds, the total expected decrease is $34.8 million.

Table 11

Summary of Funds

Harmed by Proposition B

Type of Fund	Expected Decrease in Fund (mil $)
Dedicated Funds from $0.17 State Excise Tax	$6.3
State Sales Tax	$16
County Sales Tax	$6.7
Selected City Sales Tax	$2.6
Selected City and County Excise Tax	$3.2
Total Harmed Missouri Funds	**34.8**

6. Analysis by Campaign for Tobacco Free Kids

In a separate quantitative analysis, the Campaign for Tobacco Free Kids expected decline in cigarette packs is 157,615,632.[11] Note that if one were to use the larger expected reduction in cigarette packs, the expected impact that Proposition B would have on state, county & municipal revenues is $67.7 million per year. The revenue declines are allocated on an annual basis as follows:

- $18.8 million per year from existing funds = $10.0 million from the State School Money Fund + $4.4 million from the Health Initiative Fund + $4.4 million from the Fair Share Fund.
- $43.5 million per year in sales taxes = $27.5 million state + $11.6 million county + $4.4 million municipals.
- $5.4 million per year in local cigarette excise taxes.

Please refer to Appendix 2 for Tables detailing the $67.7 million per year revenue decrease.

[11] Data prepared by *Campaign for Tobacco Free Kids* submitted by Robert L Hess, II to the Missouri State Auditor and included in the Fiscal Note preparation for the Prop B fiscal summary.

7. Summary

Missouri's Proposition B seeks to add $0.73 to the state cigarette excise tax, raising the total state excise tax on a pack of cigarettes from $0.17 to $0.90. Additionally, Proposition B increases the escrow requirement for NPMs by $0.569 per pack. With a higher cigarette excise tax and NPM escrow requirement, cigarette prices will increase. Consumers will respond to the price increase by reducing the quantity of cigarettes purchased in Missouri. Some Missourians will stop smoking, other Missourians will reduce their in-state purchases and out-of-state consumers will reduce their purchases in Missouri.

The results of this analysis are summarized as follows:

- The expected quantity of cigarettes purchased in Missouri decreases from 521 million packs to 429 million packs per year;
- The expected revenues from the net, new excise tax is $299 million per year, and not $332 million, after transferring monies to hold existing funds harmless and additional costs are accounted for;
- These existing funds will suffer reduced funding, totaling $6.3 million per year:
    - Expected monies paid into the State School Money Fund will decrease by $3.3 million per year;
    - Expected monies paid into the Health Initiative Fund will decrease by $1.5 million per year;
    - Expected monies paid into the Fair Share Fund will decrease by $1.5 million per year;
- Cigarette purchases are subject to state sales tax and the state sales tax receipts are expected to decrease by $16 million per year:
    - Net General Revenue is expected to decrease by $11.4 million per year;
    - Sales tax receipts dedicated Education are expected to decrease by $3.8 million per year;
    - Sales tax receipts dedicated to the Conservation Department are expected to decrease by $500,000 per year;
    - Sales tax receipts dedicated to Parks and Soils are expected to decrease by $400,000 per year;
- Sales tax receipts collected by Missouri counties and cities are also expected to decrease:
    - Sales tax receipts collected by Missouri counties are expected to decrease by $6.7 million per year;
    - Sales tax receipts collected Missouri's 20 largest municipalities are expected to decrease by $2.6 million per year;
- Excise tax receipts are expected to decrease as the quantity of cigarette packs decrease:
    - In the 15 cities and counties in Missouri in which the excise tax is applied against cigarette packs, the expected decrease statewide is $3.2 million per year.

Thus, if Proposition B passes, tax revenues for state, county, and municipal coffers will decrease by at least $34.8 million per year.

References

Goolsbee, Austan and Joel Slemrod, (2004), "Playing with Fire: Cigarette Taxes and Competition from the Internet," unpublished manuscript.

Appendix 1

County Population Table

County	2011 Pop		County	2011 Pop
Adair	25,552		Dallas	16,749
Andrew	17,196		Daviess	8,313
Atchison	5,569		DeKalb	12,767
Audrain	25,566		Dent	15,676
Barry	35,282		Douglas	13,548
Barton	12,327		Dunklin	31,974
Bates	17,008		Franklin	101,938
Benton	19,115		Gasconade	15,168
Bollinger	12,356		Gentry	6,786
Boone	165,627		Greene	277,214
Buchanan	89,660		Grundy	10,228
Butler	43,082		Harrison	8,866
Caldwell	9,315		Henry	22,219
Callaway	44,420		Hickory	9,628
Camden	43,679		Holt	4,814
Cape Girardeau	76,632		Howard	10,204
Carroll	9,620		Howell	40,655
Carter	6,365		Iron	10,656
Cass	100,052		Jackson	676,360
Cedar	13,948		Jasper	118,435
Chariton	7,734		Jefferson	219,480
Christian	78,570		Johnson	53,439
Clark	7,019		Knox	4,126
Clay	225,161		Laclede	35,636
Clinton	20,789		Lafayette	33,209
Cole	76,448		Lawrence	38,620
Cooper	17,663		Lewis	10,155
Crawford	24,800		Lincoln	53,076
Dade	7,807		Linn	12,566

County Population Table (cont.)

County	2011 Pop		County	2011 Pop
Livingston	15,074		Randolph	25,346
McDonald	22,977		Ray	23,230
Macon	15,591		Reynolds	6,588
Madison	12,195		Ripley	14,143
Maries	9,171		St. Charles	365,151
Marion	28,717		St. Clair	9,641
Mercer	3,804		Ste. Genevieve	18,124
Miller	24,770		St. Francois	65,577
Mississippi	14,306		St. Louis	998,692
Moniteau	15,697		Saline	23,280
Monroe	8,734		Schuyler	4,381
Montgomery	12,270		Scotland	4,828
Morgan	20,502		Scott	39,136
New Madrid	18,783		Shannon	8,432
Newton	58,414		Shelby	6,280
Nodaway	23,468		Stoddard	29,807
Oregon	11,017		Stone	32,263
Osage	13,915		Sullivan	6,659
Ozark	9,595		Taney	52,736
Pemiscot	18,174		Texas	25,936
Perry	19,041		Vernon	20,963
Pettis	42,178		Warren	32,515
Phelps	45,020		Washington	25,076
Pike	18,572		Wayne	13,475
Platte	90,903		Webster	35,439
Polk	31,170		Worth	2,150
Pulaski	53,175		Wright	18,716
Putnam	4,978		St. Louis City	318,069
Ralls	10,281			

Appendix 2

Table 2A.1

Expected Annual Sales Tax Revenue Decreases

By County With Proposition B Passing Using CTFK Elasticity

County Sales Tax Rate	County	Decrease in Annual County Sales Tax Revenue
0.01	Adair	$ 27,672.61
0.017	Andrew	$ 31,659.31
0.0225	Atchison	$ 13,570.16
0.01875	Audrain	$ 51,914.56
0.0125	Barry	$ 47,762.64
0.01	Barton	$ 13,350.04
0.01	Bates	$ 18,419.52
0.01375	Benton	$ 28,464.41
0.01625	Bollinger	$ 21,744.85
0.0125	Boone	$ 224,215.85
0.011	Buchanan	$ 106,811.15
0.01	Butler	$ 46,657.45
0.02	Caldwell	$ 20,176.14
0.01	Callaway	$ 48,106.49
0.0125	Camden	$ 59,130.00
0.01	Cape Girardeau	$ 82,991.82
0.0125	Carroll	$ 13,022.98
0.01	Carter	$ 6,893.24
0.0125	Cass	$ 135,444.36
0.01	Cedar	$ 15,105.57
0.02	Chariton	$ 16,751.72
0.0175	Christian	$ 148,908.66
0.02	Clark	$ 15,203.04
0.00875	Clay	$ 213,366.57
0.01	Clinton	$ 22,514.32
0.015	Cole	$ 124,188.83
0.0175	Cooper	$ 33,475.55
0.0175	Crawford	$ 47,001.84
0.0175	Dade	$ 14,796.10
0.02	Dallas	$ 36,278.06

0.015	Daviess	$	13,504.37
0.01	DeKalb	$	13,826.56
0.01	Dent	$	16,976.98
0.01	Douglas	$	14,672.37
0.01	Dunklin	$	34,627.58
0.0175	Franklin	$	193,196.53
0.01375	Gasconade	$	22,586.88
0.01	Gentry	$	7,349.18
0.01125	Greene	$	337,748.04
0.015	Grundy	$	16,615.26
0.0125	Harrison	$	12,002.26
0.01	Henry	$	24,062.99
0.015	Hickory	$	15,640.57
0.025	Holt	$	13,033.81
0.025	Howard	$	27,627.12
0.009375	Howell	$	41,277.22
0.015	Iron	$	17,310.54
0.01125	Jackson	$	824,053.85
0.00975	Jasper	$	125,057.53
0.01625	Jefferson	$	386,254.43
0.025	Johnson	$	144,684.99
0.02	Knox	$	8,936.85
0.01	Laclede	$	38,593.49
0.01625	Lafayette	$	58,443.24
0.015	Lawrence	$	62,737.71
0.02375	Lewis	$	26,119.73
0.0175	Lincoln	$	100,591.52
0.01	Linn	$	13,608.87
0.0075	Livingston	$	12,243.76
0.02	McDonald	$	49,767.80
0.01375	Macon	$	23,216.77
0.015	Madison	$	19,810.63
0.0166667	Maries	$	16,553.56
0.01125	Marion	$	34,987.81
0.0225	Mercer	$	9,269.33
0.01	Miller	$	26,825.71
0.0175	Mississippi	$	27,113.24
0.015	Moniteau	$	25,499.58
0.1	Monroe	$	94,588.50
0.0175	Montgomery	$	23,254.54
0.01	Morgan	$	22,203.50

0.01	New Madrid	$	20,341.83
0.00875	Newton	$	55,354.15
0.01	Nodaway	$	25,415.65
0.01	Oregon	$	11,931.32
0.0175	Osage	$	26,372.20
0.015	Ozark	$	15,586.96
0.0125	Pemiscot	$	24,602.87
0.01875	Perry	$	38,664.84
0.01	Pettis	$	45,678.43
0.00875	Phelps	$	42,661.75
0.02	Pike	$	40,226.65
0.01375	Platte	$	135,364.90
0.01	Polk	$	33,756.85
0.0075	Pulaski	$	43,191.07
0.02	Putnam	$	10,782.27
0.02	Ralls	$	22,268.48
0.01	Randolph	$	27,449.51
0.015	Ray	$	37,736.85
0.01	Reynolds	$	7,134.75
0.015	Ripley	$	22,975.13
0.01725	St. Charles	$	682,160.78
0.005	St. Clair	$	5,220.56
0.02	Ste. Genevieve	$	39,256.29
0.0125	St. Francois	$	88,774.19
0.0295	St. Louis	$	3,190,646.87
0.01625	Saline	$	40,969.58
0.02	Schuyler	$	9,489.17
0.0125	Scotland	$	6,535.86
0.01	Scott	$	42,383.97
0.01	Shannon	$	9,131.79
0.015	Shelby	$	10,201.78
0.01	Stoddard	$	32,280.74
0.0175	Stone	$	61,145.99
0.0275	Sullivan	$	19,832.02
0.01625	Taney	$	92,808.06
0.015	Texas	$	42,132.71
0.01	Vernon	$	22,702.76
0.02	Warren	$	70,426.95
0.025	Washington	$	67,892.75
0.01	Wayne	$	14,593.31
0.01833	Webster	$	70,350.81

0.01875	Worth	$ 4,365.81
0.01	Wright	$ 20,269.27
0.04516	St. Louis City	$ 1,555,608.94
	County Sales Tax Loss Total	$11,568,750.42

Source: author's calculations

Table 2A.2

Ten Missouri Counties with Largest Expected Annual Decreases

in Sales Tax Revenues with Proposition B Passing Using CTFK Elasticity

County	Expected Annual Sales Tax Revenue Decline
St. Louis	$3,190,647
St. Louis City	$1,555,609
Jackson	$824,054
St. Charles	$682,161
Jefferson	$386,254
Greene	$337,748
Boone	$224,216
Clay	$213,367
Franklin	$193,197
Christian	$148,909
Total Sales Tax Decrease for 10 Largest Counties	$7,756,162

Source: author's calculations

Table 2A.3

Expected Sales Tax Revenue Decreases by County

With Proposition B Passing and Modified County Weights Using CTFK Elasticity

County Sales Tax Rate	County	Decrease in Annual Sales Tax Revenue
0.01	Adair	$ 25,058.33
0.017	Andrew	$ 59,158.20
0.0225	Atchison	$ 49,965.74
0.01875	Audrain	$ 47,012.80
0.0125	Barry	$ 44,494.80
0.01	Barton	$ 29,525.85
0.01	Bates	$ 34,595.34
0.01375	Benton	$ 24,869.78
0.01625	Bollinger	$ 17,496.66
0.0125	Boone	$ 220,948.01
0.011	Buchanan	$ 124,604.54
0.01	Butler	$ 44,043.18
0.02	Caldwell	$ 14,947.59
0.01	Callaway	$ 45,492.22
0.0125	Camden	$ 55,862.16
0.01	Cape Girardeau	$ 80,377.55
0.0125	Carroll	$ 9,755.13
0.01	Carter	$ 4,278.97
0.0125	Cass	$ 155,664.13
0.01	Cedar	$ 12,491.30
0.02	Chariton	$ 11,523.17
0.0175	Christian	$ 144,333.68
0.02	Clark	$ 9,974.49
0.00875	Clay	$ 227,520.41
0.01	Clinton	$ 19,900.04
0.015	Cole	$ 120,267.42
0.0175	Cooper	$ 28,900.57
0.0175	Crawford	$ 42,426.87
0.0175	Dade	$ 10,221.13
0.02	Dallas	$ 31,049.51
0.015	Daviess	$ 9,582.96
0.01	DeKalb	$ 11,212.28
0.01	Dent	$ 14,362.71

0.01	Douglas	$	12,058.10
0.01	Dunklin	$	32,013.31
0.0175	Franklin	$	188,621.55
0.01375	Gasconade	$	18,992.25
0.01	Gentry	$	4,734.91
0.01125	Greene	$	334,806.98
0.015	Grundy	$	12,693.85
0.0125	Harrison	$	8,734.42
0.01	Henry	$	21,448.72
0.015	Hickory	$	11,719.16
0.025	Holt	$	53,473.34
0.025	Howard	$	21,091.44
0.009375	Howell	$	38,826.34
0.015	Iron	$	13,389.13
0.01125	Jackson	$	842,251.64
0.00975	Jasper	$	140,828.94
0.01625	Jefferson	$	382,006.23
0.025	Johnson	$	138,149.31
0.02	Knox	$	3,708.30
0.01	Laclede	$	35,979.22
0.01625	Lafayette	$	54,195.05
0.015	Lawrence	$	58,816.30
0.02375	Lewis	$	19,910.83
0.0175	Lincoln	$	96,016.55
0.01	Linn	$	10,994.60
0.0075	Livingston	$	10,283.06
0.02	McDonald	$	44,539.26
0.01375	Macon	$	19,622.15
0.015	Madison	$	15,889.22
0.0166667	Maries	$	12,196.43
0.01125	Marion	$	32,046.75
0.0225	Mercer	$	3,387.21
0.01	Miller	$	24,211.43
0.0175	Mississippi	$	55,420.91
0.015	Moniteau	$	21,578.17
0.1	Monroe	$	68,445.77
0.0175	Montgomery	$	18,679.56
0.01	Morgan	$	19,589.22
0.01	New Madrid	$	36,517.65
0.00875	Newton	$	69,507.98
0.01	Nodaway	$	22,801.38

	County Sales Tax Loss Total	$11,497,090.63

Source: author's calculations

Table 2A.4

Expected Annual Sales Tax Loss Comparing

Baseline Model to Modified Border Model Using CTFK Elasticity

County	Expected Annual Loss (Baseline)	Expected Annual Loss (Mod Border)
Andrew	$31,659	$59,158
Atchison	$13,570	$49,966
Barton	$13,350	$29,526
Bates	$18,420	$34,595
Buchanan	$106,811	$124,605
Cass	$135,444	$155,664
Clay	$213,367	$227,520
Holt	$13,034	$53,473
Jackson	$824,054	$842,252
Jasper	$125,058	$140,829
Mississippi	$27,113	$55,421
New Madrid	$20,342	$36,518
Newton	$55,354	$69,508
Pemiscott	$24,603	$44,823
Platte	$135,365	$157,607
Vernon	$22,703	$38,879

Source: author's calculations

Table 2A.5

Expected Annual Sales Tax Revenue Decreases

By City With Proposition B Passing Using CTFK Elasticity

Municipal Sales Tax Rate	Municipality	Decrease in Annual Sales Tax Revenue
0.02	Columbia	$ 235,009
0.02375	St. Joseph	$ 197,486
0.0275	Cape Girardeau	$ 112,997
0.025	Liberty	$ 78,920
0.02	Jefferson City	$ 93,308
0.02125	Springfield	$ 367,062
0.015	Blue Springs	$ 85,407
0.02	Grandview	$ 53,012
0.0225	Independence	$ 284,683
0.02875	Kansas City	$ 1,431,593
0.0225	Lee's Summit	$ 222,630
0.0275	Raytown	$ 87,935
0.02625	Joplin	$ 142,569
0.0125	Arnold	$ 28,169
0.02375	Sedalia	$ 55,010
0.02	O'Fallon	$ 171,825
0.015	St. Charles	$ 106,882
0.016	St. Peters	$ 91,101
0.025	Wentzville	$ 78,706
0.0075	Florissant	$ 42,365
0.01	Chesterfield	$ 51,425
0.015	Hazelwood	$ 42,079
0.015	Kirkwood	$ 44,738
0.03	Maryland Heights	$ 89,256
0.01	Ballwin	$ 32,927
0.03	University City	$ 114,920
0.02	Webster Groves	$ 48,291
0.005	Wildwood	$ 19,232
	Total for Largest Municipalities	$ 4,409,539

Table 2A.6

Expected Annual Reduction in Local Cigarette

Excise Tax Receipts with Proposition B Passing Using CTFK Elasticity

City or County	Expected Annual Decrease in Cigarettes	Excise Tax	Expected Annual Decrease in Excise Tax Revenues
St. Louis Region:			
St. Louis City	8,340,548	$0.07	$583,841
St. Charles City	1,725,827	$0.10	$172,583
St. Peters City	1,378,651	$0.05	$68,933
St. Louis County	26,188,262	$0.05	$1,309,413
Regional Total			$2,134,769
Kansas City Region:			
Kansas City	12,056,793	$0.10	$1,205,679
Independence	3,063,582	$0.05	$153,179
Blue Springs	1,378,651	$0.04	$55,146
Lee's Summit	2,395,798	$0.10	$239,580
St. Joseph	2,013,368	$0.05	$100,668
Jackson County	17,735,891	$0.05	$886,795
Regional Total			$2,641,047
Southwest Region:			
Springfield	4,182,446	$0.05	$209,122
Joplin	1,315,061	$0.04	$52,602
Regional Total			$261,724
Southeast Region:			
Cape Girardeau	994,910	$0.03	$29,847
Poplar Bluff	261,200	$0.02	$5,224
Regional Total			$35,071
Central Region:			
Columbia	2,845,148	$0.10	$284,515
Rolla	300,113	$0.05	$15,006
Kirksville	268,596	$0.05	$13,430
Regional Total			$312,950
	Statewide excise total		$5,385,563

Source: author's calculations

Table 2A.7

Summary of Funds

Harmed by Proposition B Using CTFK Elasticity

Type of Fund	Harmed by Proposition B ($ millions)
Dedicated Funds from $0.17 State Excise Tax	$18.8
State Sales Tax	$27.5
County Sales Tax	$11.6
Selected City Sales Tax	$4.4
Selected City and County Excise Tax	$5.4
Total Harmed Missouri Funds	**$67.7**

Source: author's calculations

The State Auditor's office did not receive a response from the **Department of Higher Education, Department of Revenue,** the **Department of Public Safety,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

The proposal will result in no direct costs or savings for state and local governmental entities. Actions at the local government level allowed by this proposal could result in unknown indirect costs or savings to state and local governmental entities that cannot be estimated.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-032) Revision

Subject

Initiative petition from Todd Jones regarding a proposed constitutional amendment to Article VIII. (Received May 6, 2013)

Date

December 20, 2013

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

Marc H. Ellinger provided information as an opponent of the proposal to the State Auditor's office.

Todd S. Jones provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources, but should significant litigation result, may seek future additional appropriation.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Higher Education** indicated they do not anticipate that the proposal contained in this initiative petition would have any direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated:

The fiscal impact to their department is ($0-Minimal) as per the following assumptions:

Penalty provisions, the component of the petition to have potential fiscal impact for their department, is for up to a class D felony. Currently, their department cannot predict the

number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (FY13 average of $18.014 per offender, per day, or an annual cost of $6,575 per inmate) or through supervision provided by the Board of Probation and Parole (FY13 average of $5.07 per offender, per day, or an annual cost of $1,851 per offender).

The following factors contribute to the department's minimal assumption:
> The department assumes the narrow scope of the crime will not encompass a large number of offenders
> The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence
> The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another
In summary, supervision by the department through probation or incarceration would result in some additional costs, but it is assumed the impact would be $0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department. The department cannot determine whether this will create a positive or negative economic impact on the state of Missouri.

Officials from the **Department of Public Safety** indicated there is no fiscal impact due to this initiative petition for their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal has no impact on their office. This proposal will have an impact on the Missouri Ethics Commission, but they will be responding independently.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Columbia** indicated this appears to affect contributions to committees that form to influence the result of local ballot issue elections. It is impossible for the city to determine if this would increase or decrease contributions and, as a result, the potential for passage of issues for capital improvements.

Officials from the **City of Jefferson** indicated it is anticipated this measure would have a negative fiscal impact on the city. However, a more complete fiscal analysis is not available at this time.

Officials from the **City of Kirkwood** indicated there is no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this bill would have no direct financial impact on their city.

Officials from the **Missouri Ethics Commission** indicated the total cost for salaries, fringe benefits, equipment and expenses, local assistance, and other costs will be $118,152 for FY 2014, $121,113 for FY 2015, and $122,339 for FY 2016.

The petition refers to both continuing committees and political action committees interchangeably. Both committees have the same definition in the petition. Senate Bill 844 had changed the name of continuing committee to political action committee, but the definition remained the same. After SB844 was struck down by the Missouri Supreme Court, the committees continued as continuing committees. For example, Subsection 3 (12) attempts to restrict contributions of political action committees (but does not mention continuing committees).

In addition Subsection 3 (12) contains restriction committee to committee transfers challenged as unconstitutional in SB844 due to the restrictions on corporations not included in the designated chapters. The state did not dispute that constitutional issue. Subsection 3(16)c also restricts contributions from foreign corporations.

Sections 4(1) and 5 reference violations of Section 3 of the Article. It is unclear whether the drafter intended to reference Section 23.
Implementing the statutory requirements regarding contributions between campaign finance committees, would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo., about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in campaign finance committee adherence to the transfer of funds, including reviewing, auditing, and performing cross checks, as established in Section 105.955.14 (2), (3), RSMo. Currently about 11,000 campaign finance reports are filed annually with the Commission (quarterly and other disclosure reports) from 2,200 different campaign finance committees.
- Investigate written complaints and conduct investigations, as established in Section 105.955.14, RSMo. Investigative work requires identifying necessary documentation and records to request and/or subpoena, identifying witnesses and interviewing witnesses, reviewing all relevant documentation, performing complex and detailed analysis of data and information and witness interviews, communicating with Commission management and legal staff; reviewing Missouri statutes and constitution; drafting investigative report; presenting report to Commission.
- Perform legal actions related to investigations conducted in addition to conducting legal proceedings before the Commission in the event a violation is found. Conducting legal actions during the investigation and hearing stage ensures fairness throughout Commission proceedings. Legal actions include reviewing all complaints received for statutory authority, reviewing case correspondence including legal memoranda and responses to investigators; providing legal oversight for all investigations (complaints and other investigations); this includes communicating with and reviewing all investigative work, work papers, and

reports; conducting legal analysis of alleged statutory violations; drafting and issuing all legal documents including subpoenas, affidavits, pleadings, legal petitions for a hearing before the Commission, attorney correspondence, correspondence and communication with/to respondents, joint stipulations, findings of facts and conclusions of law, and Commission orders; preparation of hearing exhibits; interviews of hearing witnesses; preparation for and conducting hearings; oversight and review of appeal pleadings in the event of an appeal.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo. about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo., through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•2 Business Analysts to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

Marc H. Ellinger provided the following information as an opponent of the proposal to the State Auditor's office.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Todd Jones on May 3, 2013.

In 2012, the State Auditor's Office issued a Fiscal Note (11-35) for a similar initiative petition. In that fiscal note, both the Department of Revenue and the Missouri Ethics Commission indicated there would be additional costs to their departments. The Auditor's Office issued the following Fiscal Note Summary:

> It is estimated this proposal will increase state government costs by at least $127,000 annually and result in one-time costs of about $28,000. Any potential impact to state government revenue could not be determined. It is estimated this proposal will have no costs or savings to local governments.

This fiscal note summary vastly underestimates the costs to state and local governments as a result of the proposed measure. We urge you to adopt a different fiscal note for this proposed measure on the basis of the data you will find herein. Not only will there be direct costs to state agencies as indicated in Fiscal Note 11-35 but there will be widespread effects on the Missouri economy. Each election cycle, candidates spend millions and millions of dollars in Missouri. Limiting the total amount of contributions will limit the total amount of money candidates will raise, and therefore will decrease the amount of campaign spending in Missouri. Currently candidates spend millions of dollars on payroll for campaign workers, thousands of dollars in payroll and income taxes paid directly to the State of Missouri, they spend money for lodging and food at local Missouri businesses, their media purchases support Missouri media companies, and they purchase of printing, supplies, utilities, and more in Missouri. Not only do many of these expenditures directly yield state and local tax revenues, but through the multiplier effect, these dollars are spent and re-spent within our state and local economies. Limiting campaign

contributions would significantly reduce campaign spending in Missouri and have a serious negative fiscal impact to both the state and local governments.

Economic Impact of Campaign Spending

To date, there has not been a comprehensive study regarding the fiscal impact of state elections on Missouri state and local governments. However, there is research on the fiscal impact of election spending. One such study sought to determine how campaign spending affects earnings in service sectors.[1] More specifically, the study sought to determine how income growth is affected by the presence of a primary.

The study concluded that the presence of the primary not only increases overall income, but also income in service-related sectors. The authors found a 41% increase in quarterly income growth rate in quarters where there is primary spending.

The authors point out that states with primaries tend to see between $500,000 and $19 million spending during an election cycle, which is enough to "modestly boost local income growth." Primary spending increases total income growth by 0.53 percentage points. The effect is higher in the services sector, where growth is increased by 0.76.

The study also points out that there would be a "multiplier effect" which the authors explain as follows:

> For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdressers more. This money will continue to circulate in the state's economy.

In addition, the study finds that Missouri is one of the five states with the highest amount of money spent on campaign expenditures, compared to the total contributions by state residents.

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[1] See Lessem, Rebbeca & Carly Urban, "*Local Economic Growth from Primary Election Spending,*" Working Paper, Carnegie Mellon University, 2012, attached hereto as Appendix A.

The study shows that there is more than twice as much campaign spending in Missouri as is contributed by state residents. This study finds that primary campaign spending increases income growth in a state. "[W]hen individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur)." (emphasis added).

While the Lessem & Urban study does not directly quantify the amount by which Missouri state election campaign spending stimulates the Missouri economy and the economies of Missouri local governments, it does demonstrate that there is significant fiscal impact of such spending.

It has previously been suggested, without any evidence, that there would be an incentive to increase the quantity of small donations, and therefore the limits would not significantly decrease election spending. The research does not support this conclusion. *See* Stratmann, Thomas, *Do Low Contribution Limits Insulate Incumbents from Competition?*, 9 Election L.J. 125, 126 (2010) ("Hogan (2000) took an altogether different approach to the analysis of contribution limits. Instead of relating them to competitiveness in elections, he correlated campaign finance laws with campaign spending and showed that stricter contribution limits correlate with significantly lower campaign spending, primarily by incumbents."); Smith, Bradley A., *Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform*, 105 Yale L.J. 1049, 1073 (1996) ("Beyond making it harder for challengers to raise case, contribution limits also tend to decrease overall spending.").

There is no authority to suggest that the dollars spent at a local print shop, hotel, or restaurant by a presidential primary campaign operate differently in the Missouri economy than if spent by a campaign for a Governor, a State Senator or State Representative. And while

increased election spending has a positive effect on a state's economy, drastically reducing election spending will have a correlated negative effect on the economy. We can examine data from the Missouri Ethics Commission to see the true impact of limiting campaign contributions.

A Case Study: Nixon 2012

In 2012, Jay Nixon ran a successful re-election campaign for Governor. While his campaign spent money in the years leading up to 2012, we have limited our analysis to a single year. First, we will examine contributions. In 2012, alone, Nixon's candidate committee received donations ranging from eleven cents to $500,000.00. More than 40% of the contributions to Nixon's campaign came from out of state.

Nixon 2012	
Contributions from in-state	$4,703,437.39
Contributions from out-of-state	$3,348,067.98
Percentage Total Contributions from Out-of-State	41.58%

Under the proposed initiative, candidate committees would only be allowed to accept 2,600 from any individual or entity. In 2012, Nixon's candidate committee received a total of $8,051,505.37 in contributions. If you limit each contributor to the maximum ($2,600.00) under Section 23.3(1)(a), IP, and eliminate any contributions from other candidate committees pursuant to 23.3(4), IP, the amount of contributions is significantly less -- $2,207,976.00. That is a decrease in contributions of more than $5.8 million dollars. Only 27.42% of Nixon's contributions in 2012 would have been lawful if this proposed measure were in place.

Nixon 2012	
Total Contributions	$8,051,505.37
Contributions from Candidate Committees	$42,650.00
Contributions in excess of $2,600	$5,800,879.37
Total Lawful Contributions under IP	$2,207,976.00
Total spending contributions prohibited under IP	$5,843,529.37
Percent of lawful contributions of total contributions	27.42%

The next step is to look at where these campaign dollars were being spent. According to the Missouri Ethics Commission, in 2012, Nixon's campaign spent more than $12 million dollars.[2] The expenditures are broken down by categories in the table below.

Nixon 2012		
	Spending (Dollars)	Percentage of Total Spending
Payroll & Field Work	$745,023.80	6.09
Missouri Taxes	$63,404.72	0.52
Federal Taxes	$330,642.56	2.70
Media	$9,181,550.00	75.10
Other Missouri Expenditures	$866,243.68	7.09
Out of State Expenditures	$1,039,072.50	8.50
	$12,225,937.26	100.00

Nixon spent approximately $750,000 on payroll or paying field workers. All of this amount would be subject to Missouri State income tax. The amount of taxes the Nixon campaign paid directly to the State of Missouri is in excess of $60,000. In addition, the Nixon campaign paid more than $300,000 in federal taxes. The cities of Kansas City & St. Louis presumably collected a 1% earnings tax from a portion of that amount. The $750,000 paid to

[2] Nixon had raised significant contributions prior to 2012 for the 2012 election cycle. If the proposed IP had been in effect, the loss of economic activity would be even greater.

employees would have a significant impact on the economy due to the multiplier effect. Much of that money would be spent on retail sales, generating sales tax for the state and local governments. If all of the people who normally work political campaigns no longer could be employed by campaigns, there would be significant belt tightening by these individuals which would result in additional lost sales tax revenue.

Nixon also spent more than $9 million dollars on "media." All of that money went to an out-of-state media company. Still, traditionally that company coordinates all the media purchases, which presumably were with in-state media providers, as Nixon was running for Governor of Missouri. While some of the $9 million dollars could be attributable to media production, the majority of it was likely for paid radio, television, and print advertising in Missouri. The loss of $9 million dollars in the Missouri media market in a single year is significant.

Nixon also paid more than $850,000 to other Missouri individuals or companies. Many of these expenditures were in the services and accommodations sectors. This money supports Missouri businesses and helps fund their payroll.

We have already seen that the proposed measure would have reduced Nixon's total campaign contributions by 72.58%. Assuming the proposed measure would decrease spending by the same amount, we can project what Nixon's spending would have looked like with contribution limits in place.

Nixon 2012		
	Spending (Dollars)	Projected Spending with Contr. Limits
Payroll & Field Work	$745,023.80	$204,285.53
Missouri Taxes	$63,404.72	$17,385.57
Federal Taxes	$330,642.56	$90,662.19

Media	$9,181,550.00	$2,517,581.01
Other Missouri Expenditures	$866,243.68	$237,524.02
Out of State Expenditures	$1,039,072.50	$284,913.68
	$12,225,937.26	$3,352,352.00

The proposed measure would have translated into a spending decrease of $8.87 million dollars. Again, for just one campaign for just one year. Even if you assume only 75% of the "media" expenditures affect Missouri's economy, approximately 70% of Nixon's total campaign expenditures affect the Missouri economy. In total, just one year of one campaign resulted in approximately $8.5 million dollars of expenditures in or affecting Missouri's economy. This estimate does not include the multiplier effect of such expenditures.

The Effect on the State of Missouri

According to the Missouri Ethics Commission, total expenditures by candidates that would be affected by the proposed measure were approximately $49.5 million dollars in 2012. Reducing that number by the percentage of allowable contributions we saw with the Nixon campaign (27.42%) translates to a loss of almost $36 million dollars due to the initiative petition.

Statewide 2012			
	Spending (Dollars)	Projected Spending with Contr. Limits	Lost Dollars due to IP
Payroll & Field Work	$3,016,429.52	$827,104.98	$2,189,324.55
Missouri Taxes	$256,711.09	$70,390.18	$186,320.91
Federal Taxes	$1,338,695.46	$367,070.30	$971,625.17
Media	$37,173,978.19	$10,193,104.82	$26,980,873.37
Other Missouri Expenditures	$3,507,220.86	$961,679.96	$2,545,540.90
Out of State Expenditures	$4,206,964.89	$1,153,549.77	$3,053,415.11
	$49,500,000.00	$13,572,900.00	$35,927,100.00

The loss of these payroll amounts impacts state revenues in two ways: (1) the loss of state income taxes on these amounts and (2) the loss of state sales taxes forgone. First, the amount of state income taxes can be estimated taking the total payroll figure, applying the multiplier, and multiplying by the tax rate of .06%. Here, lost income tax revenue would total $656,767.36. In estimating lost sales tax amount, the multiplier must be applied. Previous research has suggested using a local fiscal multiplier of 5.[3] Assuming 35% of the payroll income is taxable spending, the total lost sales tax revenue would be more than $186,000 (2,189,324.55*5*.04225).

With respect to the media spending, assuming only 75% of that translates to Missouri corporate income, and applying the corporate tax rate translates into a loss of $1,264,728.44 (26,980,873.37 *.75 *.0625). Also assuming that half of the media spending is paid out to employees in salaries, there would be lost income taxes and sales taxes on that amount. There would be approximately $4,047,131.01 (26,980,873.37*.50*5*.06) in lost income tax. There would be a corresponding loss of state sales tax revenue from this loss of salary in the amount of $997,449.16 (26,980,873.37*.50*5*.035*.04225). Finally, there would be sales tax lost on the "other Missouri expenditures." Even assuming only half of such expenditures were taxable, applying the multiplier and the sales tax rate, the state would lose $268,872.76 of sales tax revenue. The total loss to Missouri state government (based on only one year of one election cycle) is at least $7.39 million dollars.

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[3] A multiplier helps estimate the direct impact, indirect impact and induced impacts. Direct impact includes the payroll dollars being paid. Indirect impact represents the impact of routine consumer spending by those individuals. Induced effects are those changes in spending due to additional (or lost) employment generated by the direct and indirect effects. "Expenditure Multiplier" attached as Appendix B.

2014-032 Impact on the State	
Lost State Income Tax due to lost campaign payroll	$656,767.36
Lost State Income Tax due to lost media payroll	$4,047,131.01
Lost State Sales Tax due to lost campaign payroll	$161,873.18
Lost State Sales Tax due to lost media payroll	$997,449.16
Lost State Sales Tax on "Other Missouri Expenditures"	$268,872.76
Lost Corporate Income Tax on media companies income	$1,264,728.44
TOTAL	$7,396,821.91

The Effect on Local Government

In addition, the proposed measure would have a significant effect on local government revenue. In St. Louis and Kansas City, a 1% earnings tax is collected on income. There would be losses associated with both the lost campaign payroll and lost media payroll, in the amounts of $14,228.42 and $87,674.35 respectively.[4] In addition, the average local sales tax rate is 3.45% in Missouri. This rate was applied to the same tax bases as described above, resulting in total lost sales tax revenue of over $1.1 million. The total loss to local governments as a result of the proposed measure exceeds $1.2 million. The loss to local governments is confirmed by the City of Jefferson's response that the measure will have a "negative fiscal impact" on the City of Jefferson.

[4] In 2011, the population of St. Louis and Kansas City as a percentage of total state population was 12.998% according to the U.S. census bureau. Applying this percentage to the total payroll statewide generates an estimate of payroll that would be subject to the earnings and income tax. This estimate will likely underestimate the actual fiscal impact because the earnings tax is collected from all city residents and all non-city residents who work within the city limits.

2014-032 Impact on Local Governments	
Lost Earnings Tax due to lost campaign payroll	$14,228.42
Lost Earnings Tax due to lost media payroll	$87,674.35
Lost Local Sales Tax due to lost campaign payroll	$132,180.47
Lost Local Sales Tax due to lost media payroll	$814,485.11
Lost Local Sales Tax on "Other Missouri Expenditures"	$219,522.90
TOTAL	$1,268,091.25

Senate Bill 844

In 2010, the Missouri legislature passed Senate Bill 844. Legends Bank filed a lawsuit asserting three arguments (1) SB 844 violated the single subject requirement of article III, section 23 of the Missouri Constitution, (2) SB 844 violated the original purpose requirement of article III, section 21, and (3) SB 844 violated the First Amendment because it bars political action committees from receiving money from Missouri state-chartered banks but allows political action committees to receive money from other entities and individuals. *Legends Bank v. State*, 361 S.W.3d 383, 385-386 (Mo. banc 2012). The trial court found that SB 844 violated the single subject requirement and that section 130.031.13 violated the First Amendment. *Id.* at 386. The Supreme Court did not reach the First Amendment issue because the finding that SB 844 violated the original purpose requirement of the Missouri Constitution was dispositive. *Id.* at 387.

The proposed initiative petition contains a provision identical to the provision that was the subject of the First Amendment challenge in Senate Bill 844 (IP, Section 23.3(12)). It is

highly likely this proposed measure will be challenged in court and the state will be forced to expend significant resources in defending the suit. This figure should be added to the one-time costs for the state.

Conclusion

The proposed measure would have a significant negative economic impact on both the state and local governments in Missouri. In just one year, election spending amounted to almost $50 million in Missouri. The proposed measure would drastically reduce election spending. State and local governments would lose income and earnings tax revenue and sales tax revenue, not just on the amount of decreased election spending, but much more, due to the multiplier effect. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. We submit the following proposed statement of fiscal impact:

> Annual state government revenue will decrease by at least $7.39 million per year. It is estimated this proposal will also increase state government costs by at least $127,000 annually and result in one-time costs of about $50,000. Annual local government revenue will decrease by at least $1.2 million per year.

Local Economic Growth from Primary Election Spending*

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December 4, 2012

Abstract

This paper asks how government and private consumption spending affect earnings in service sectors. To do this, we exploit a natural experiment, using an exogenous form of consumption spending–the money spent while campaigning for a party's Presidential primary nomination. To answer these questions, we create a novel dataset combining the date each state held its primary from 1976-2008, the date in each election cycle in which only one candidate remained, and quarterly state income by sector. Hosting a primary election increases total income, particularly in the accommodations sector. These results remain consistent when using data on primary campaign expenditures across states in the 2004 and 2008 elections.

JEL codes: D72, H30

*The authors acknowledge helpful comments from Dennis Epple, Amit Gandhi, Ken Goldstein, Andrew Reschovsky, John Karl Scholz, Alan Sorenson, and Chris Taber. All remaining errors are our own.

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Appendix A

1 Introduction

Government expenditures have been found to increase employment and income.[1] However, this literature restricts itself to studying investment expenditures in the form of education, health, military, and infrastructure spending, leaving the question, "How does added consumption spending affect income?" unanswered.[2] This paper uses a natural experiment to estimate the relationship between consumption spending and short-run income growth by exploiting exogenous variation in the duration and ordering of Presidential primary campaigns.

In 2008 alone, these campaigns spent $348 million across states on hotels, meals, rental cars, and other campaign expenditures.[3] This figure does not include the amount spent by media covering the race, personal in-state expenses of staffers, or additional funds individuals outlay when coming out to witness the spectacle of a primary race. We use this exogenous spending to determine the short-run income growth when money enters a state economy.

Primary elections are held sequentially by state and each election cycle varies in duration due to changes in the competitiveness of elections. In some years, there is no primary in many states, as the nomination is determined long before each state has its turn to vote for a nominee.[4] For example, in 2004 Senator Kerry clinched the Democratic nomination in March, whereas in 2008 President Obama did not win the nomination until June. In

[1] See for example, Wilson (2011), Shoag (2010), Serrato and Wingender (2010), Chodorow-Reich et al. (2011), Ramey (2011), and Ramey (2011a).

[2] To a certain degree, this question has been addressed in the literature on the economic impact of mega-events such as the Superbowl, Presidential Nomination conventions, and the Olympics, (See Matheson (2006) and citations therein). However, it differs in certain respects, most importantly in that we have a stronger identification stratedy. In primary elections, there is ex-ante uncertainty as to whether or not a state will be reached by primary campaigns, whereas mega-events are planned far in advance. Mega-events allow an area to anticipate additional consumption expenditures and internalize the benefits by increasing up front costs. However, the value of consumption spending in a primary is unanticipated ex-ante and the variance in spending between hosting and not hosting a primary is high, deterring businesses from internalizing the benefits prior to the event. Second, candidates campaign in areas to reach the maximum number of pivotal voters not in the most desirable tourist locations, so it is unlikely that crowd out of the local tourist sector occurs in this setting as in the prior vein of literature.

[3] Authors' calculation based on CRP (2011).

[4] We consider the nomination determined once there is only one candidate remaining in the contest.

particularly long primary elections, local businesses in states that are not normally exposed to primary campaigns receive an exogenous increase in revenue. In addition, many states change their position on the primary calendar between election cycles.

This paper first establishes the exogeneity of campaign spending and economic indicators. Next, we exploit the variation in whether or not a state receives campaign spending in each year to test how this increased spending affects local economies. Specifically, we study how income growth is affected by the presence of a primary in a given state and quarter.[5]

To conduct this analysis, we create a novel dataset of primary and caucus dates from 1976-2008, where we determine if a state held a primary based on the scheduled primary date and the date in which only one candidate remained in each party's election. We pair this primary elections data with quarterly state-level and sector-specific information on personal income levels from the Bureau of Economic Analysis (BEA).

We find that the presence of a primary increases overall income, as well as income in service-related sectors. From 1976-2008, income growth increased by 0.53 percentage points in states with primaries, compared to an average income growth of 1.3 percentage points per quarter. This implies about a 41% increase in the quarterly income growth rate in quarters when there is primary spending. Our results are robust to controlling for factors related to the amount of spending as well as to including state fixed effects. We verify these results using data on campaign expenditures for 2004 and 2008 from the Center for Responsive Politics.[6] In this setting, we find that doubling campaign expenditures increases overall income growth by about 0.05 percentage points (or hosting a primary results in a 35% increase in quarterly income growth rates), and this effect is particularly pronounced in the accommodations sector.

[5]The idea that election outcomes could affect the economy is not new. Snowberg et al. (2007) use prediction market analysis of elections from 1880-2004 to show that electing a Republican President raises equity valuations by 23%. Knight (2006) shows that policy platforms in the 2008 Presidential general election were capitalized into equity prices. No one has previously asked how the act of campaigning can affect the economy.

[6]Data on campaign expenditures are only available for these two years.

We appeal to two distinct literatures in this paper. First, the existence of primary elections provides a new environment in which to study local economic development, through exogenous shocks to consumption expenditures. Recently, scholars and policymakers have expressed interest in the American Recovery and Reinvestment Act (ARRA) spending. Wilson (2011) and Chodorow-Reich et al. (2011) use instrumental variable strategies and find that one new job created costs $125,000 and $26,300 per year, respectively.[7] Asking a similar question Serrato and Wingender (2010) find that an additional job costs $30,000 per year, using an instrumental variables strategy and data on federal investment spending. Similarly, Shoag (2010) uses the idiosyncratic component of state-managed defined benefit pensions to predict government spending. He finds that $35,000 of spending generates one additional job.

In comparison to the papers just mentioned, we avoid the natural endogeneity concern that spending is often allocated to states in the most need of growth.[8] Candidates campaign as to maximize their chances of winning the election, which generally means following the primary calendar. Candidates campaign in states sequentially, and tend to not visit a state until the primary is upcoming. One reason for this is that individual victories create momentum to propel a candidate to his next contest.[9] In addition, candidates also have a disincentive to over-spend in the primary, as they want to save any potential funds for the general election battle, conditional on winning the nomination. For these reasons, the optimal strategy for candidates is to campaign sequentially, meaning that the allocation of funds will depend on the primary schedule and will be exogenous to local economic conditions.

In addition, our paper studies the effect of spending on a different set of sectors than is normally assessed. Most of the ARRA funds were centered around Medicaid and

[7] Chodorow-Reich et al. (2011) find that the jobs resulting from Medicaid spending are concentrated in the state and local government, health, and education sectors.

[8] This is particularly true in the cases of the ARRA spending, though Knight (2002) shows that this can also be true in the transportation sector.

[9] See Abramowitz (1989), Abramson et al. (1992), Mutz (1998), Adkins and Dowdle (2001), Callander (2007), Strumpf (2002), and Klumpp and Polborn (2006) for more on the necessity of momentum in primary contests.

education, and other federal spending initiatives focused on infrastructure investment, energy efficiency, unemployment assistance, and state and local government stabilization (111th Congress 2009). On the other hand, primary spending likely benefits the local economy in the service-related sectors. Another unique feature of our work is that transfers do not entirely come from the federal government, allowing us to study how increases in consumption expenditures in the form of transfers can affect income growth. Primary campaigns are sometimes funded through federal matching, but candidates vying for their party's presidential nomination rely on money from individual donors and from Political Action Committees.[10]

Second, while we establish that the duration of a primary and the time in which states changed their primary dates are uncorrelated with economic indicators, our paper adds to the literature investigating the incentives for states to hold early primaries.[11] States early in the primary process are presumed to have a disproportionate effect on candidate selection by building candidate viability, attracting donors and volunteers, and creating momentum (Abramowitz 1989; Abramson et al. 1992; Mutz 1998). Some work examines the policy benefits of early contests. Taylor (2010) finds no effect, while Knight and Schiff (2010) find that early contests had a 20% greater influence over candidate selection than later contests in 2004.[12] Similarly, Malhotra and Snowberg (2011) find that the order mattered less than pivotal, or competitive, primary contests in 2008. Theoretical work demonstrates that voters can use early contests as cues in determining their vote choices.[13] This paper is the first to investigate the potential economic benefits of having an early

[10]See Section 6 for more on federal funding percentages.

[11]States have a demonstrated interest in holding early primaries. For example, in 2008 Michigan and Florida moved their primaries to January, and this was rejected by the DNC. Democratic candidates agreed to refrain from campaigning in these states, and the delegates were not counted in the candidates' totals. This did not deter Florida from moving its primary up in the order again in 2012, which was this time rejected by the RNC, costing the state half of its delegates (Grice 2012). Thus, moving a primary contest too early can be costly, yet states are still attempting to change their primary dates.

[12]Taylor (2010) uses state procurement data from 1984 to 2004 to show that primary order matters only in competitive nominations when the victorious candidate won that states contest. Knight and Schiff (2010) use changes in prediction markets over the election to identify influence.

[13]See Morton and Williams (2001), Callander (2007), Serra (2011), and Ali and Kartik (2006).

nomination contest.[14]

The remainder of the paper is organized as follows. Section 2 describes the construction of the dataset. Section 3 provides descriptive statistics and motivates our identification strategy. Section 4 explains our empirical strategies and presents our findings. Section 5 discusses the source of campaign funds, and Section 6 provides concluding remarks.

2 Data

We combine institutional details of primary races dating back to 1976 with state-level personal income data from the Bureau of Economic Analysis (BEA), creating a comprehensive Presidential primary and local economic database. In the next 3 sub-sections, we explain how we collected these data. For more information on the specifics of the variables created, including summary statistics, the source of each variable and the calculation of each variable, see Tables 8-10 in Appendix A.

2.1 Primary Information

We hand-collect a thorough database of the dates of each primary or caucus in each state starting from 1976, which is the first year the Democratic National Committee (DNC) and Republic National Committee (RNC) held conventions in their current forms, and ending in 2008.[15] We obtain this information from the Green Papers (for primaries), as well as Frontloading HQ (for caucuses), and confirm these with state election boards when the two are not consistent. When a state's delegates are determined by only state party officials (and not in caucuses or primaries with individual voters), we count this as

[14] A parallel literature looks at the effects of the primary structure on general election outcomes. The primary process may constrain candidates from converging to the position of the median voter, as they will take on more extreme positions to satisfy primary voters who are less moderate than the general population (Geer 1988; Norrander 1989). Malhotra and Snowberg (2011) study the effects of early contests more broadly, including candidates' difficulties of returning to the center in the general after trying to attract primary voters.

[15] This means that individual voters, not party elites, began selecting candidates in each state. The candidate with the most delegates earned the nomination at a national convention.

a case where the state did not have a "primary." In cases where states hold a "beauty contest" nomination, where individual voters choose their favorite candidate but there are no delegates at stake, we count this as having a "primary," as some candidates find it important to win a symbolic victory in these states to gain momentum.[16,17]

Next, we collect information on the date at which the nomination was clinched for each party in each year. We award a candidate the nomination when he is the only candidate left in the contest, meaning that the primary campaigning has ended. This sometimes occurs months before the convention date. Table 1 contains the dates at which candidates clinched the nominations over time. In cases where the incumbent was not challenged in the primary, such as 1984 for Ronald Reagan, we code the primary for that party as "no primary."[18]

Additionally, in certain situations there could be spending for the primary and the general election at the same time. For example, in 2004, when President George W. Bush was the incumbent, he immediately began campaigning for the general election because he had no competition in the primary. During this same time period, Democrats were competing for their party's nomination. Likewise, in 2008 Senator McCain started to campaign for the general election once he clinched the nomination in March, whereas the Democratic primary continued for three additional months. We want to be sure that we are measuring the effect of primary election, not general election, spending. Thus, we collect data on the battleground states for each election cycle, asserting the conventional wisdom that candidates only campaign in battleground states in Presidential general elections (Stromberg 2008; Ashworth and Clinton 2007; Huber and Arceneaux 2007).[19]

[16]States holding these "beauty contests" usually choose their candidate based on conventions and state party officials' decisions. After 2000, there are some instances where there were no delegates at stake, after a state had moved up in the primary process and one of the national committees considered this unconstitutional , i.e. Michigan and Florida in 2008. These two states still had campaigning from the Republicans, so we include them in this context alone.

[17]The primary dates by party for each state and year combination from 1976 to 2008 are available upon request.

[18]All incumbents do not have the luxury of having no opposition in the primary election. For example, President Carter's low approval ratings gave the DNC justification to push other candidates, including Edward Kennedy, to challenge him in the primary contest.

[19]See Section 2.3 for more on spending.

We label a state as a battleground state if the difference in the likelihood the Democratic candidate wins and the Republican candidate wins is ever within 10 percentage points in Intrade prediction markets or polling data (specifically, pollster.com and David Leip's polling report). In earlier elections when polls are more sparsely available (i.e., 1976-1992), we instead look at the races where the candidates' end vote shares were within 10 percentage points of one another.[20] Finally, a state can only be labeled as a battleground state if 1) the election cycle has started and 2) the primary contest in at least one party has been completed (i.e., only one candidate is remaining).[21]

2.2 Income

The BEA reports total personal income in each quarter and state, for each sector of the economy. For the purpose of this paper, we refer to total earnings (excluding government transfers) as total income. We transform this into per-capita values using population data from the US census. In addition to total income per capita, we focus on the sectors where we would expect large effects from primary spending, which are mostly service related sectors. Accommodations and retail are two sectors we focus on, in that the visiting campaign staff and media will need to stay in hotels and make purchases during the campaigns. The accommodations and retail sector accounted for about 5% and 9% of total income in 2008, respectively.

The BEA data is divided into 2 periods: 1974-2001, and 1990-2009, and the sector definitions changed across the two periods. We focus our analysis on the services sector, particularly food and accommodations, because that is where we expect to see the largest effect. In the data from 1974-2001, the BEA only reports total income in the services sector. However, in the 1990-2009 data, they divide services into different groups, including food and accommodations, which we focus on. We therefore do the analysis separately

[20] A list of each state and the years in which the state was a battleground in competitive in the general election is shown in Appendix B.

[21] Conditional on hosting a primary in a given quarter, the probability that a given state is labeled a battleground state in the same quarter is less than 39 percent.

for each period due to these data limitations.[22]

2.3 Campaign Expenditures

We obtain campaign expenditures data for the 2004 and 2008 primary election cycles from the Center for Responsive Politics (CRP), which collects and compiles data from the Federal Election Commission.[23] These data contain information on each expenditure made in House and Presidential races by campaigns, Political Action Committees (PACs), and state parties, where each expense contains a date, location (down to zip code), and information on what the expense entailed (i.e. hotel). We narrow this dataset to include only expenses made in pursuit of the primary nomination by the Presidential candidate's official campaign, i.e. "Barack Obama for President, 2008." We do not include PAC spending as it is difficult to understand for which campaign the PAC is spending its funds (i.e. Presidential or House) in the data.

These data also include information on the division of the campaign in which the expense was made. We create two different measures of expenditures. Campaign expenditures consist of all money spent by the candidate and his direct staff on travel, hotel rooms, and meals, as well as local polling, Get-out-the-Vote campaigns (GOTV), and campaign events. In addition, campaign expenditures include what the campaign calls "administrative expenditures," which includes all money spent on the offices within a state and its staffers. This mostly consists of spending on catering for meetings, rent, utilities, cable, and internet in campaign offices, administrative supplies (associated largely with IT costs), and staffer travels (rental cars, housing, flights, etc.). Total expenditures include all expenses listed under our campaign expenditures measure, as well as money spent on broadcast, radio, and print advertising, along with other media-related costs (i.e., media consultants, production costs of advertisements, and miscellaneous costs related to getting

[22]We attempted to aggregate the 1990-2009 data to get a total measure of income in the services sector. Since the years 1990-2001 are included in both datasets, we can compare to see how similar the two measures are. They are very different, which is why we could not use this aggregated services income in the same analysis as the 1974-2001 services data.

[23]See CRP (2011) for more information on the dataset.

out the message).

The total expenditures are likely to include some expenses that do not directly affect a state's local economy at the time of a primary, though they are expenses made for the primary campaign. For example, the production of an advertisement run in Iowa could be done in California, and thus included in this measure. The production could also be done in Iowa, however, and it is not feasible, given the data, to distinguish the two. Thus, for the remainder of the paper, we choose to focus on the campaign spending measure in favor of the total expenditures measure.

We expect that campaign expenditures are a good proxy for the candidate's travel and the campaign's direct expenses. However, the administrative portion of the campaign expenditures are likely a lower bound for the amount of money staffers spend in each state during the campaign. For example, if campaign staff goes to a restaurant in the evening, this will not be covered as a campaign expense, especially if the meal includes alcohol. This spending amount is a lower bound for total exogenous spending in the area, since national news and media crews also tend to follow and cover the primary schedule state by state. Even with this lower bound, states with primaries tend to see between one half a million and 19 million dollars in spending over an election cycle. Comparing this to the median total income in the retail and accommodations sectors, 7.14 and 3.3 billion respectively, this is still enough money to modestly boost local income growth.[24]

3 Descriptive Statistics

In this section, we first argue that the timing and existence of a primary campaign is exogenous to local economic growth. We next look at the campaign expenditures data from 2004 and 2008 to establish that there is more spending during primary campaigns.

[24]If we instead use total expenditures instead of campaign and administration expenditures in the analysis that follows, our results are slightly smaller in magnitude, though they remain substantively similar to the estimates provided. These results are available upon request.

3.1 Exogeneity of Primary Campaigns

The identification strategy in this paper comes from the orthogonality of primary campaign spending in a given state and the state's local economy, where the nature of primary contests gives candidates an incentive to campaign sequentially. Since this money is not targeted to states with the most need, the shock to consumption expenditures generated from primary campaign spending is exogenous to income levels. Iowa's primary is always first in the election cycle, so the state should expect the millions of dollars spent in local businesses by the Presidential campaigns, media crews, and the ceremony of the primary election. Since the natural experiment fails in this case, we drop all states that have a primary in every year in our analysis. Other states, however, experience more variation in regards to (1) whether or not any money will be spent in primary campaigns and (2) how much money will be spent. This variation comes from two main channels.

First, the duration of any primary campaign is unknown ex ante. While some primary campaigns leave only one candidate in each party after only a few months (i.e. in 2004 when Senatory Kerry clinched in March), other election cycles (i.e. 2008) carry on until June, reaching every state. Figure 1 shows the variation, by party, of the number of states reached by campaigns in each election cycle. This shows significant fluctuations in the number of states that have primary elections each year, particularly in Republican primaries. Alternatively, Figure 2 plots the duration of primary campaigns over time, where the duration is defined as the number of days from the first primary until only one candidate remained in the contest.[25] In general, the early contests from 1976-1992 took longer to determine each party's candidate.

Figure 2 additionally plots the average real GDP per capita in the US over time, reassuring us that the duration of primaries is uncorrelated with the state of the economy.[26] To provide a specific example of the changes in primary campaigning between years, we

[25]Since there are potentially 2 primaries in each state and year, there is a duration for each contest. We plot the length of the longer primary in each year.

[26]When regressing real GDP per capita on the duration of primaries, we find no statistically significant relationship between the two variables.

show the changes in primary status by states between the 2004 and 2008 elections. Figure 4 shows which states switched primary status between 2004 and 2008. Comparing just these 2 election cycles, we see that there are many states that had primaries in 2008 but not 2004, due to both the fact that there was no Republican primary in 2004 and the length and competitiveness of the 2008 Democratic primary.

Second, the ordering of primaries across states has changed drastically from 1976 through the present day. Although national parties have some influence on the timing of primaries, the decisions are ultimately made by each state. There has been significant movement in the primary calendar over time. The change in ordering also allows for some states to experience campaign spending in some election cycles and not others. In addition, if a state's primary moves to a day in which many other states hold their contests, this may lead to a reduction in campaign spending in that state. This gives us variation in both the existence of and amount of spending by primary campaigns.

The argument in our paper implies that states should have an incentive to move their primaries earlier in the calendar in order to gain economic benefits. If this were true, then we could no longer argue that primaries are exogenous. However, we do not believe that this is the case, due to the lengthy process involved in changing primary dates. In order for a state to be able to change its Presidential primary date, the state legislature must propose a bill, which in most states is an extremely lengthy process, where less than 5-10% of bills are passed.[27] The lengthy process creates difficulty for states to change their date in a timely fashion, making it unlikely that the primary date will be switched (and reached) when the state's economy is at its worst. In addition, the state and national party officials must approve the change in date for the state's delegates to count in the nomination process.

Furthermore, even though this change of date is under the authorization of state

[27]Most states have dates like the following from Montana's Constitution: 13-1-107. Times for holding primary elections. (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state (The Constitution of the State of Montana, 2011).

elected officials who have an interest in state policy, a state's change in ordering is seemingly uncorrelated with a change in economic indicators. To demonstrate this, in each year we split the states into two groups: those who changed their primary date from the previous election, and those that did not.[28] Figure 3 plots the average GDP growth in both groups over time.[29] The graph also shows the number of states that changed their primary date in each year. This figure shows no systematic difference between the GDP growth in both groups over time.[30] We also see that there are a large number of states that change their primary dates each year, showing that this provides an important source of variation.

An additional literature on vote-buying suggests that politicians can adjust funds on a state-by-state basis (See e.g., Levitt and Snyder (1995); Fleck (2008)). If government funds are correlated with campaign spending, this could additionally confound our effect. However, the ability of politicians to adjust the allocation of government funds quickly on a state-by-state basis is limited. For example, Senator Kerry would have trouble providing a voting record that appeased each state he visited in his Presidential primary campaign surrounding the time of that state's election. This makes the approach taken in this paper more compelling than studies that focus on differences in policy spending over time as exogenous variation.

3.2 Primary Spending

In this paper, we study whether the existence of a primary increases local income. For there to be an effect, there has to be more campaign spending in states with primaries. To verify that this is true, we use data on campaign expenditures from the 2004 and 2008 primary elections. Table 2 shows the distribution of spending for primaries by quarter,

[28] We label a state as having changed their primary date if the date of the primary made a substantial change (i.e. more than 2 weeks) such that it took an initiative within the state's Board of Elections and changed the ordering of the primary schedule.

[29] The average GDP growth takes percentage growth of GDP between two years of each state (in each group) and takes the average of those observations by year.

[30] A t-test shows that the difference in the means is not statistically different than 0.

where states with primaries in the current or next period have higher spending than areas without primaries. We see that spending increases not only increased during the quarter of the primary, but also in the quarter before the primary. Early spending could occur because candidates campaign in some states for an extended period of time, especially when the race is on the cusp of two quarters.

Next, we look at the changes in spending in states as they change primary status over the years, to ensure that having a primary leads to increased spending. In general, we see that states that did not have a primary in 2004 and did have one in 2008 tended to have more spending in 2008. Figure 4 shows the states that held a primary in 2008 and not in 2004, and Figure 5 shows the percentage change in expenditures between the two election cycles. States such as Pennsylvania and Utah, which were reached in the lengthy Democratic campaign in 2008, had over 20 percent more primary spending in this election cycle than they did in 2004, when the process culminated before the state was reached. There is also an increase in spending from 2004 to 2008 in early states like Iowa, South Carolina, and New Hampshire, where the increased number of candidates and the fact that both parties held primaries increased the spending in those states. Conversely, the state election boards in Michigan and Florida moved their Presidential primary contests up, and set the elections in January 2008. The DNC challenged these moves, and in turn, Democratic candidates opted to not campaign in these states. Thus, spending in these states actually decreased from their later primary day in 2004.[31] Overall, these figures show variation in spending in states, depending on whether or not there is a primary in that year. This supports our argument that there will be more spending in states with primaries.

Using the spending data and the primary dummies in 2004 and 2008, we estimate the

[31]There are cases where state boundaries provide a neighboring state with additional spending when there is not a primary in that state. For example, New Jersey benefited from New York's early primary on a day independent of all other primary contests in 2004. This is because candidates spent money renting cars, purchasing hotel rooms, and eating some meals in New Jersey, though they were officially campaigning in NY. When compared to 2008, even though NJ held its own primary, it did this on a day when many other states also held primaries, as did NY. This made spending higher in the previous election cycle.

relationship between the existence of a primary and spending growth, while controlling for the same factors we take into account in our later analysis. We first construct a set of control variables we expect to be correlated with the intensity of spending. The structure of the primary calendar is such that there is often one day with many of the elections, typically called "Super Tuesday." We control for whether or not an election in a state is on this day each year.[32] Another possibility is that in states with late primaries, early spending for the general election when one party's nominee has been determined and the other has not could falsely lead to higher levels of income growth, especially in battleground states. To account for this, we control for whether or not a state is a battleground state in periods after one party's candidate has been chosen.[33]

The first column in Table 3 shows that the existence of a primary more than doubles spending growth in that quarter, when compared to states without primaries. Primary spending growth is lower in "Super Tuesday" states when compared to states with primaries on other days, as "Super Tuesday" elections make it hard for time-constrained politicians to campaign everywhere. In addition, battleground states tend to have significantly lower spending growth than non-battleground states. This result is not surprising since our dependent variable is only primary spending growth, and does not include money earmarked for the general election.[34] In addition, competitive states are always labeled as "battleground" in the third quarter of the election year, or the height of the general election. This is the time in which primary growth is most likely to be negative, or lower than the previous period. If we add state level fixed effects to this model, as in Column (2), we see that primary campaigning still more than doubles spending growth when com-

[32]Our "Super Tuesday" control is defined as the day each year that has the most primary elections in a given state. The list of states with primaries on "Super Tuesday" in each year is shown in Appendix B. "Super Tuesday" is always reached, so it is an interaction term between the primary dummy and having an election on the given date.

[33]We could include a control for whether or not a state held a competitive primary. For example, in President Bush's home state of Texas, he may have already been a favorite and not needed to campaign. However, enough states have a proportional share of electoral votes, so candidates still receive votes towards the final count if they do not win a majority in a given state.

[34]The probability of being in a battleground state in a given quarter conditional on having a primary in the same state, quarter is less than 36% in this sample.

pared to a period when the state did not have a primary. Hosting a primary on "Super Tuesday" lowers this substantially, as does being in a battleground state.

4 Empirical Analysis

In this section, we estimate the effect of primary spending on local economic development. We first test how the existence of a primary before the nomination has been determined affects changes in income growth from 1976-2008. We then verify these results using data on campaign expenditures across states in the 2004 and 2008 elections.

4.1 Existence of a Primary

We assume that a state's income in a given quarter depends on whether or not there is a primary in a given time period, a set of control variables, and state and year fixed effects. Let P_{it} be a dummy variable indicating whether or not there is a primary in state i at time t. Denote the log average per capita income in sector s in state i at time (year) t as y_{ist}, state fixed effects as μ_{is}, time fixed effects as γ_{st}, control variables as X_{it}, and the error term as ϵ_{ist}. Then we can write

$$y_{ist} = \beta_{0s} + \beta_{1s} P_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist} \tag{1}$$

Taking first differences of Equation (1), the state and year fixed effects drop out:[35]

$$\Delta y_{ist} = \beta_{1s} \Delta P_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \ , \tag{2}$$

where $\hat{\epsilon}_{ist} = \Delta \epsilon_{ist}$.

We estimate equation (2) and look at how changes in the primary dummy variable

[35]The year fixed effects do not drop out in every period. Since we are using quarterly data, as we go from the 4th quarter of one year to the first quarter of the next, the year fixed effects technically will not difference out. However, since they would only be identified off of one quarter per year, we chose to drop these year fixed effects.

affect income growth in different sectors. Identification in this specification comes from comparing states with primaries to those that do not have primaries. We define a state as having primary spending if there is a primary in the current quarter or in the next quarter, acknowledging that candidates sometimes spend an extended amount of time campaigning in a state.

We drop states that have primaries in every election year, as it is hard to argue that the existence of a primary is exogenous in states that anticipate primary spending each cycle. Perfect foresight of primary spending may allow individuals to internalize more upfront costs, where business that normally would not be open in a given season may change their behavior since they know primary campaigns will spend there with certainty each cycle. These states invalidate the natural experiment present, where it is necessary to maintain uncertainty in the timing and duration of primary elections. Dropping these traditionally early states leaves us with a sample of states for which there is variation in whether or not there is a primary, so each election cycle contains uncertainty as to whether or not they will receive primary spending.

We present the unconditional effects of hosting a primary. Since the existence of primary campaigns are exogenous to the state of the economy, the unconditional effects of campaign spending will be unbiased. In this specification, we still include quarter fixed effects to control for seasonal fluctuations in income. We control for variables that may affect the volume of spending, such as having a primary on "Super Tuesday" and whether or not the state was a battleground in the given period.

In Table 4, we show results for total earned income, as well as in sectors where we would expect the largest effect from primaries: accommodations, services, and retail trade. We expect accommodations to be particularly affected; however, this measure is not available for the early data, so we instead use the services sector for the first time period. The data from the later time period shows that accommodations is the service sector most affected by primary spending. We expect that primary campaign spending will directly affect the accommodations sector, as increased revenues from hotel room, catering, food services,

and additional expenses the campaigns incur flow straight into this sector. The definition of retail trade changed slightly between the two periods provided. However, since we are looking at growth, we pool the observations from the two time periods. To account for this difference, we include a dummy variable in the estimation to account for which time period the data is from.

The first three columns of Table 4 show that primary spending increases total income growth by approximately 0.53 percentage points, where the average state income growth reported in Table 8 in Appendix A is 1.3%. Primary spending increases income in the services and accommodations sectors by 0.76 and 0.47 percentage points, respectively (where the mean growth rates are 2.1% and 1.1%, respectively). For retail trade, we see a positive effect of primary spending on income levels, though this is not statistically different from zero.

Table 4 also shows that having a primary on Super Tuesday decreases the overall effect in Columns (1)-(5), so much so that they negate any positive effect of hosting a primary. This is expected because candidates devote less resources to each state if there are multiple primaries on the same day, as shown in Table 3. We do not find a statistically significant effect of being a battleground state. The timing is set such that states count as a battleground starting, in the calendar year of the election, when one candidate in either party has clinched the nomination. When an incumbent is not challenged in a primary, a state that is competitive in the general election is classified as a battleground state starting in the first quarter of the election year. However, the most intense campaigning occurs during the 3rd quarter of each election year. When we only allow states to be classified as battleground states in the third quarter, the battleground dummy variable is positive and statistically significant. This implies that income growth increases in battleground states later in the election cycle, possibly due to spending for the general election.

In an alternate specification, we also include state fixed effects when estimating Equation (2). In the initial setting, the state fixed effects dropped out of the regressions because we study income growth. In this next specification, we allow for state fixed ef-

fects in growth rates. This changes the identification of the dummy variable for primary elections. Without state fixed effects, the coefficient on the primary election variable was identified by comparing the income growth in states with and without primaries. By including state fixed effects, the coefficient is identified by comparing income growth in a given state when the primary variable changes values. The results with state fixed effects are in Table 5. This does not substantively change the results.

This increased income could come through increased labor force participation, or an increase in hours worked (as well as overtime pay) for current workers. Using data from the Bureau of Labor Statistics on the number of workers in each sector on a monthly basis, we find no effect of primary elections statistically different from zero. This implies that our results are due to increased hours worked for current workers in the sector.[36]

4.2 Expenditures

Next, we verify the results in the previous section with data on the amount spent by campaigns in each state during the 2004 and 2008 primary elections. This setup allows for an extra source of variation resulting from differences in expenditures across states and time.

Denote logged spending in a state as e_{it}, and y_{ist} is defined identical to Equation (1).[37] Then

$$y_{ist} = \beta_{0s} + \beta_{1s} e_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist}$$

Taking differences,[38]

$$\Delta y_{ist} = \beta_{1s} \Delta e_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \tag{3}$$

[36] In these results, we use the same specification as above. These results are available upon request.

[37] If we instead use per capita spending, our results are almost synonymous. This is because there is little change in state population between quarters. These results are in Table 13 in Appendix C.

[38] The year fixed effects will not difference out as we go from the last quarter of each year to the first quarter of the following year. However, since they would only be identified off of one quarter per year, we choose to drop the year fixed effects.

The parameter β_{1s} tells us how changes in spending growth affect income growth in each sector. This provides a more precise estimate of the effect of spending growth on income growth since we also have variation in spending in each state and quarter. Our identification largely comes from states that were reached in the 2008 election but not in 2004. However, we argue that the amount spent is orthogonal to a state's economic growth, as even if a state is consistently reached (and is reached in both 2004 and 2008), there is still uncertainty about the degree of spending in each year. For example, some years provide competition between candidates in both parties, while others have competition from only one. In addition, there is large variation in the number of entrants within each party between years. At times, favored candidates do not win the early states, turning the tide of the election, thereby increasing the competitiveness. Changes in primary dates affected the spending in some states as well. For example, New York moved its primary in 2008 to an election day with other states, causing a decrease in its expenditures between the two cycles. Thus, our variation comes from states that had both increased and decreased expenditures over the two election years. Finally, we exploit variation in spending over the course of the primary election cycle, where earlier contests with more competitors tend to exhibit more spending. As in the previous section, we drop the states with early primaries (Iowa, New Hampshire, and South Carolina), which have primary elections in every year.[39]

We use quarterly data on campaign expenditures in a given state to estimate Equation (3), and are interested in the coefficient on the growth rate in expenditures, β_{1s}. In this analysis, we use data from 2003-2004 and 2007-2008. We continue to control for battleground status of the state, though we no longer control for different attributes of the primary, as the spending amounts will capture the existence of a "Super Tuesday."[40]

Table 6 reports the coefficient and standard errors for β_{1s} in Equation (3), which is

[39]If we restrict the sample further to include only the states that change primary status between the two election cycles (or only estimating the extensive margin), our results remain substantively similar, though our standard errors become slightly larger.

[40]If we additionally control for lagged spending growth or the "Super Tuesday" dummy variable, β_{1s} is not statistically different from the specification shown in Table 6.

the coefficient on the growth rate in expenditures. In order to generate results that are comparable to those found in Tables 4-5, we estimate what the increased economic growth from having a primary. To do this, we use the results from Table 3, which show that having a primary more than doubles campaign spending in a state (or over 100%). We find that campaign spending modestly increases quarterly growth, where doubling campaign expenditures between quarters results in a 0.054 percentage point increase in a state's total income from the previous quarter, adjusting for seasonal increases in income. We see the largest effects in the accommodations and retail trade sectors, where doubling expenditures results in a 0.13 and 0.061 percentage point increase in income, respectively. We find larger effects in the accommodations sector than we do for total income. Comparing these to the mean income growth rates for the time period in Table 8 in Appendix A, we find that these results are about a 35% increase in total income, making these results consistent with the previous analysis.

The results for the retail trade sector are slightly different from the previous results using a primary dummy variable, as they are now statistically different from zero. While this sector has smaller growth rates on average when compared to the other two sectors, the increased growth in the later period may in part be influenced by the many technological and startup needs of the campaign offices' expenses that happened from 2004-2008 moreso than in previous periods. In addition, given a larger effort of grass roots campaigning from 2004-2008, staffers likely spent more time in less populated areas, allowing them to promote local economies more than in the longer time period. The battleground dummies again appear to slightly decrease income growth.

Similar to the previous section, we also include state fixed effects, where the comparison now comes from changes in spending growth within the same state. This is shown in Table 14, and does not substantially change the results. In addition, we replicate the results using the primary dummy variables from the previous subsection on this subsample. These results, in Table 15 in Appendix C, are consistent with the results in Tables 4-5.

Theoretically, these expenditure results can be used to calculate a multiplier, which

would give the effect of additional spending on income levels. We expect that a multiplier effect will exist if service sector employees are receiving higher wages and exuding higher levels of spending. For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdresser more. This money will continue to circulate in the state's economy. Calculating this multiplier would provide a comparison to the traditional literature on fiscal stimulus multipliers, given that this multiplier would reflect previously unstudied sectors. However, we do not have a complete measure of the amount spent during primary campaigns. Our measure of spending is a lower bound on the actual amount of additional spending brought forth by a Presidential primary campaign, and does not include spending by the media, individual spending by staffers, or the additional expenditures put forth by a state's residents in order to engage in campaign events. For simplicity, we will refer to these additional expenses as "media spending" for the remainder of the discussion. This mis-measurement of total spending makes it hard to calculate accurate multipliers.

We assume that media spending and our expenditure values are highly correlated,[41] which implies that our estimate of β_{1s} will not be biased. However, this makes it difficult to estimate the multiplier. The multiplier tells us how much total income would grow with an additional $1 of spending. In our setup, an additional $1 of primary spending does not just account for a $1 increase in spending, as it would also be associated with an increase in media spending. Because we do not have an accurate measure of media spending, we are uncertain of the degree to which media spending would increase, and therefore cannot calculate an accurate multiplier. This argument implies that multipliers would be (and are) unreasonably large (just over 10). When we instead run simulations varying the amount of media spending, between 50% and 100% of our expenditure values, our estimates of β_{1s} remain statistically equivalent to the previous estimates. This simulation also produces lower and reasonable multiplier estimates within ranges of media spending

[41] We think this is a valid assumption since a race with greater primary spending may have more electoral votes and garner more media attention. Also, like candidates, networks are constrained if many contests occur on the same day and have to spend less covering each given state.

between 50% and 100% of total campaign spending (between 2 and 3.5). The biggest difference between our work and the traditional public finance literature looking at local multipliers is the lack of public investment spending in this paper.

5 Where is the Money Coming from?

A discussion of the economic benefit of primaries would be incomplete without considering the sources of these funds. In particular, concern may arise that campaign contributions from individuals within a state are approximately equal to campaign spending in that same state. If, for example, Iowa residents are contributing at a higher rate than the rest of the country (especially at the time of the primary), funds may simply be moving amongst Iowa citizens.

Campaign spending differs from traditional government spending because campaigns are financed through three sources: individual level contributions, federal matching funds, and Political Action Committee (PAC) contributions. Individual level contributions in presidential races are generally considered consumption goods, where an individual donates to a campaign if it increases his/her utility (Ansolabehere et al. 2003). Thus, individuals who enjoy following politics, as well as those with more resources, tend to contribute more money to candidates and do this more frequently (Brady et al. 1995). While we do not precisely know the counterfactual, we postulate that this money would not be spent in the absence of primaries, as those who contribute in primaries tend to be more high-income individuals whose budgets allow for some flexibility in spending. However, we cannot fully assess the value of individuals' participation in the process, where they give their time, or small dollar donations to the campaign. These resources would likely be reallocated in the absence of the race. An additional source of "individual" funds, which are less frequently utilized in primary races, is a candidate's personal expenditures, which likely would not be spent to the same extent in the absence of a race and are a direct transfer to individuals in the service sector of states with a high degree

of campaigning.

Second, partial public funding is available to Presidential primary candidates in the form of matching payments of up to $250 per individual contribution.[42] To obtain these funds, candidates must become eligible and limit themselves to spending caps.[43] Again, these funds differ from the traditional federal spending in that they are not targeted at aiming an impoverished area, but instead are entrusted to viable Presidential candidates with intentions of getting out their messages to help voters make an informed decision. There has been little variation in the total federal funds allocated for Presidential primary contests over our full sample period (1976-2008), and this money can be seen as a transfer from all taxpayers to those receiving campaigning.

Third, candidates receive money from PACs. While PAC contributions have increased significantly since 1976 (FEC 2010),[44] candidates still receive most of their money during the primary from individuals and matching funds. This is because partisan PACs generally wait until a candidate has clinched the nomination to stand behind him. In 2008, candidates raised a total of $534 million from individuals, $63 million from PACs, and $21 million from federal matching funds. Similarly, in 2004, candidates raised $130 million from individual contributors, $10 million from PACs, and $27 from federal funds.[45]

Recognizing that the majority of campaign spending comes from individuals, we analyze the geographic sources of the donations in Figures 6 - 7 for 2004 and 2008, respectively. We construct a measure, entitled Campaign Ratio, by dividing total campaign-related expenses (i.e., money spent specifically on the travel-related activities for campaigning, not on ads, media, consultants, etc.) in a given state by that state's total individual-level campaign contributions. Thus, the greater the measure, the more relative money that is coming from out of state than being spent in state.

[42]Variation in total federal funding will come via the number of contributions as well as the number of candidates raising the threshold amount to begin collecting federal dollars within each primary cycle.

[43]See `www.fec.gov` for more on these rules.

[44]Also, see the CRP `http://www.opensecrets.org/pres08/totals.php?cycle=2008` for more trends on giving and expenditures.

[45]Calculations based on Federal Election Commission data on Presidential candidates' primary fundraising.

In Figure 6, we see that in early states like Iowa, New Hampshire, South Carolina, Missouri, Arkansas, and Virginia, there is the greatest ratio of spending to contributions. States like Texas, Washington, and California had some of the lowest ratios in 2004, meaning that residents were contributing more money than was being spent in the state on campaigns. Similarly, Figure 7 shows that Iowa, New Hampshire, Wisconsin, Missouri and Iowa have the highest amount of money spent on primary campaign expenditures, compared to he total contributions by state residents. However, South Carolina and Kansas still saw more money spent in their states than what their residents contributed. In general, what we see is a transfer of funds from individuals in some states with many contributors to states early in the primary process, or on days with their own contest. These figures imply that the money being spent during primaries is mostly coming from outside the state.[46]

6 Conclusion

This paper takes a traditional public finance and macroeconomics question, asking how government spending affects local economies, and looks at primary campaign spending as an exogenous shock to previously unstudied sectors of a state's economy. We find that this money modestly increases income growth in a state. Specifically, the service sectors see the largest effects, where the accommodations sector seems to be the main source of this finding.

While other papers have investigated the ability of early primaries to influence policy, as candidate's attempt to appease early state's preferences in order to clench the nomination early (Malhotra and Snowberg 2011), our paper is the first to show the economic value of hosting a primary race. We also find that when there are few candidates in the race, it is more valuable to have a primary race that occurs independently of other states, making a Super Tuesday primary less valuable in terms of spending and economic

[46] Again, we do not look at small donations or within-state volunteering as inputs.

growth. This paper provides additional incentives for states to move their primaries up in the ordering, though to do so strategically.

Additionally, this paper provides a new insight on fiscal stimulus. While previous work has established a link between government spending and increases in employment, earnings, and income, this paper asserts that additional spending in states' service sectors provide short-run increases to personal earnings on the intensive margin. Thus, when individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur). A federal re-ordering of the primary calendar may best be structured to help states with struggling service sectors.

As policymakers continue to reform campaign finance legislation, they should consider the potential positive effects, though short-run and sector-specific, that can ensue from campaign spending in states.

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Figures

Figure 1: Number of primaries over time

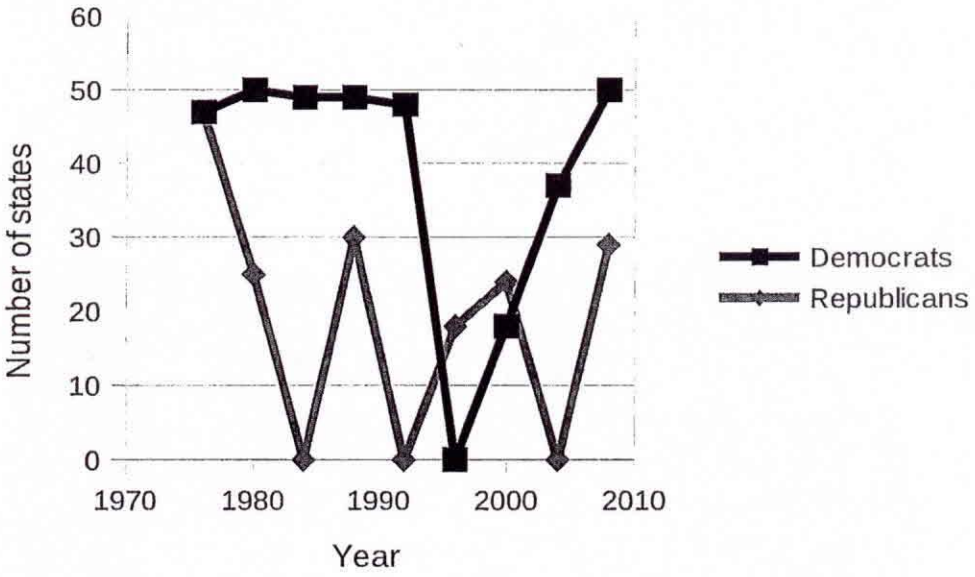


Figure 2: Primary Length and GDP

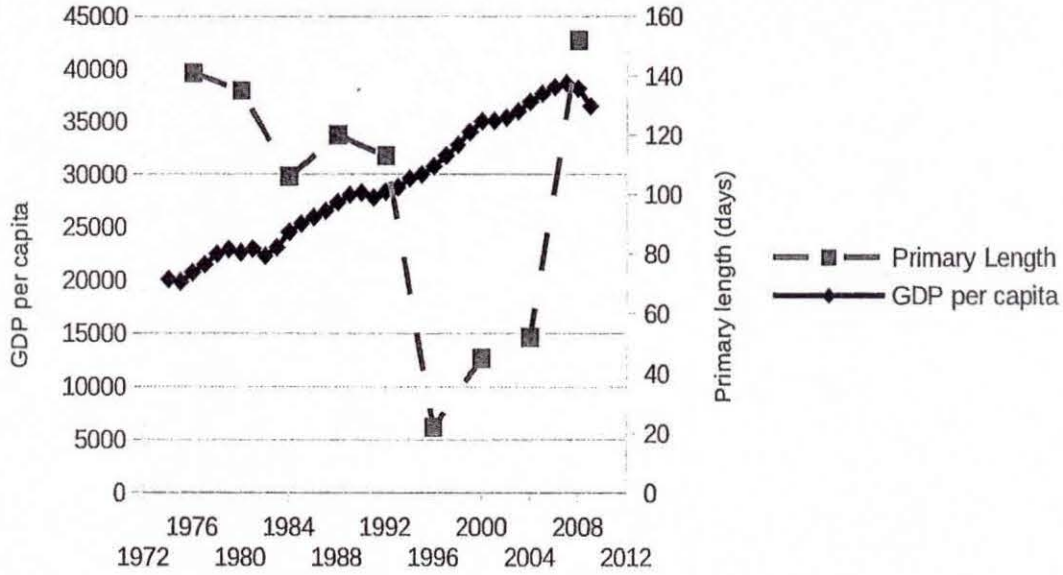


Figure 3: States that switch primary dates and GDP

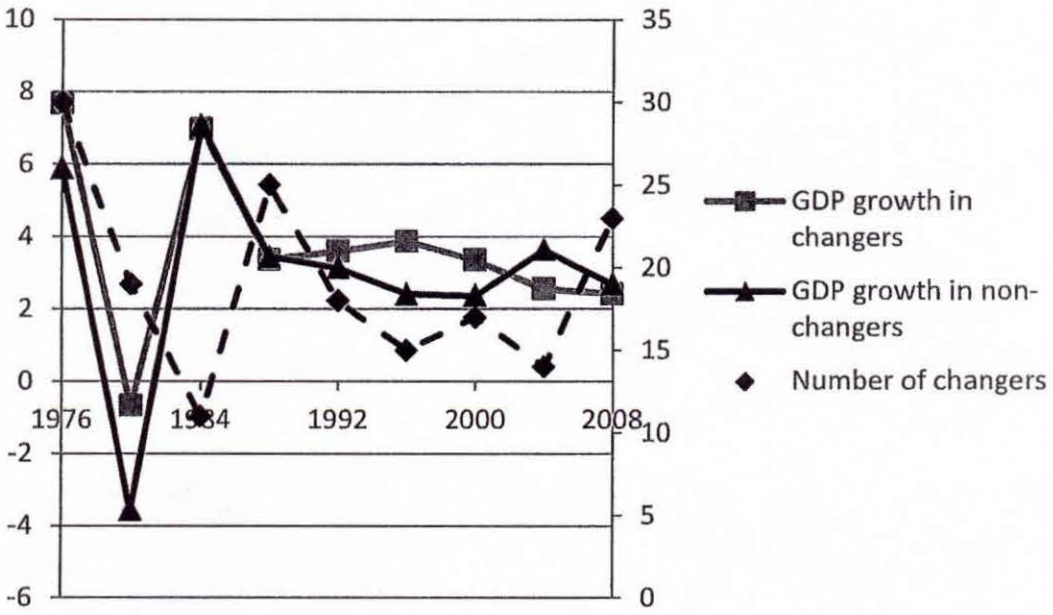


Figure 4: Primary Status Between 2004 and 2008

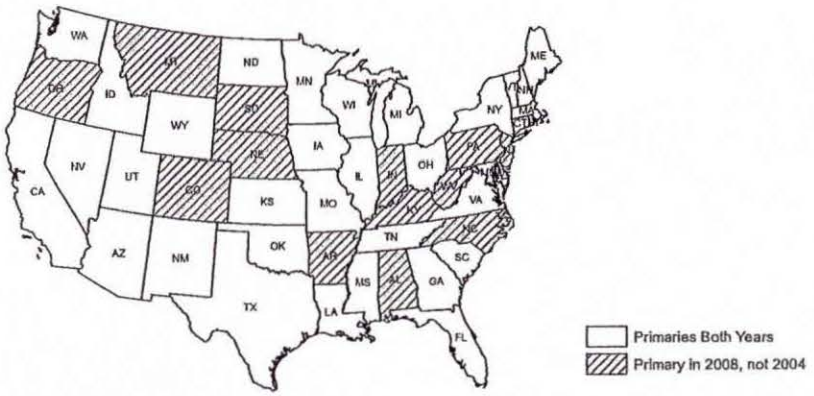


Figure 5: Changes in Expenditures from 2004-2008

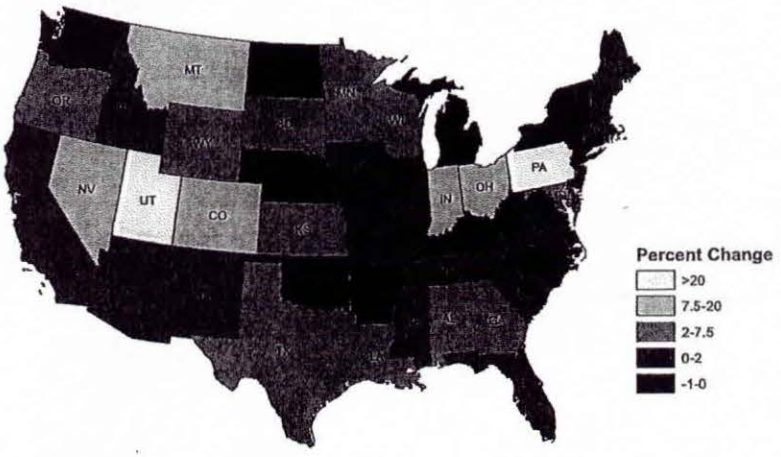


Figure 6: Campaign Expenditures and Contributions in 2004

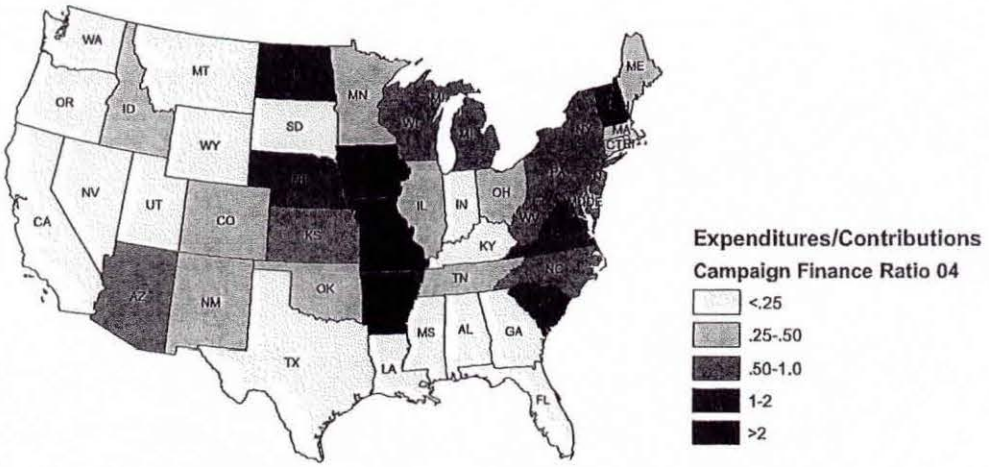
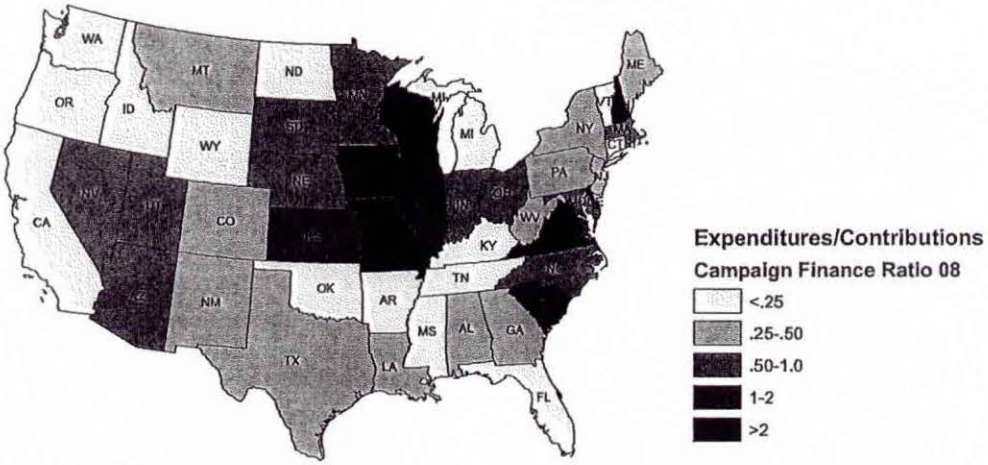


Figure 7: Campaign Expenditures and Contributions in 2008



Tables

Table 1: Dates when only one candidate remains by party

	Republicans		Democrats	
	Date Clinched	Nominee	Date Clinched	Nominee
1976	8 June	Gerald Ford	8 June	Jimmy Carter
1980	1 May	Ronald Reagan	4 June	Jimmy Carter
1984	No Contest	Ronald Reagan	5 June	Walter Mondale
1988	15 March	George H.W. Bush	7 June	Michael Dukakis
1992	No Contest	George H.W. Bush	2 June	Bill Clinton
1996	5 March	Bob Dole	No Contest	Bill Clinton
2000	9 March	George W. Bush	9 March	Al Gore
2004	No Contest	George W. Bush	11 March	John Kerry
2008	4 March	John McCain	3 June	Barack Obama

Notes: President Carter had a very low approval rating and was forced by the DNC to run in the primary in 1980. No Contest means that there were no contenders against the incumbent president.

Table 2: Spending by Primary Existence

Primary Status	Total Spending	Campaign Spending
Primary in current quarter		
Average	1,507,529	703,237
Median	423,584	222,641
25th Percentile	86,755	55,653
75th Percentile	1,487,526	721,901
Observations	89	89
Primary in next quarter		
Average	1,733,553	638,328
Median	276,206	138,157
25th Percentile	33,115	27,522
75th Percentile	1,336,009	679,948
Observations	89	89
No primary		
Average	861,762	372,993
Median	99,962	35,286
25th Percentile	16,191	4,207
75th Percentile	533,750	255,636
Observations	624	624

Total Spending includes all money spent by campaigns (in $s).
Campaign Spending removes ad and media expenditures from Total Spending.
Compares quarter/states with and without primary elections
in 2003-2004, 2007-2008.

Table 3: Primary Existence Predicts Primary Campaign Expenditures

Dependent Variable=Spending Growth		
	(1)	(2)
Primary	1.128***	1.218***
	(0.281)	(0.335)
Primary on Super Tuesday	-0.481	-0.693*
	(0.341)	(0.392)
Battleground State	-1.500***	-1.688***
	(0.222)	(0.229)
Observations	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. Column (2) includes state fixed effects.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 4: Primary Elections Increase Income Growth

Dependent Variable=Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00525***	0.00761***	0.00473**	0.000798
	(0.000678)	(0.000958)	(0.00227)	(0.000970)
Primary on Super Tuesday	-0.00399**	-0.0140***	-0.0146***	-0.00746**
	(0.00188)	(0.00316)	(0.00486)	(0.00294)
Battleground state	0.000202	-0.000194	-0.00214*	0.000474
	(0.000576)	(0.000842)	(0.00125)	(0.000736)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 5: Primary Elections Increase Income Growth (state fixed effects)

Dependent Variable = Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00528***	0.00764***	0.00497**	0.000833
	(0.000492)	(0.000635)	(0.00215)	(0.000679)
Primary on Super Tuesday	-0.00401*	-0.0137***	-0.0153***	-0.00771**
	(0.00210)	(0.00295)	(0.00400)	(0.00303)
Battleground state	0.000378	-0.000154	-0.00188*	0.000531
	(0.000509)	(0.000849)	(0.00107)	(0.000642)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies and state fixed effects. State-quarter observations.

Drops IA, NH, SC.

Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 6: Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000541***	0.00134***	0.000606***
	(0.000155)	(0.000259)	(0.000215)
Battleground	0.000768	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies. State-quarter observations.

Drops IA, NH, SC.

Table 7: Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000520***	0.00128***	0.000586***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000222	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies and state fixed effects.

State-quarter observations. Drops IA, NH, SC.

Appendix A: Data Appendix

Table 8: Summary Statistics

	Mean	Standard deviation	Minimum	Maximum
Full Sample				
Income growth	0.0128	0.0147	-0.1020	0.1833
Services income growth	0.0209	0.0171	-0.2070	0.3299
Accommodations income growth	0.0107	0.0237	-0.4903	0.3630
Retail trade income growth	0.0110	0.0173	-0.2736	0.2800
Primary dummy	0.1011	0.3015	0	1
Super Tuesday dummy	0.0146	0.1200	0	1
Battleground dummy	0.0984	0.2978	0	1
Only for election years				
Primary dummy	0.4156	0.4930	0	1
Super Tuesday dummy	0.0600	0.2376	0	1
Battleground dummy	0.4044	0.4909	0	1
2004-2008 Sample Only				
Income growth	0.0143	0.0284	-0.0443	0.2404
Accommodations income growth	0.0110	0.0294	-0.0752	0.2158
Retail trade income growth	0.0031	0.0222	-0.0857	0.1458
Campaign spending growth	-0.4350	3.0736	-12.0499	9.3338
Campaign spending growth*	0.4401	1.7784	-8.8538	8.8708
Campaign spending growth**	-0.7289	3.3502	-12.0499	9.3338
Battleground Dummy	0.2475	0.4318	0	1
Super Tuesday dummy	0.0437	0.2047	0	1
Only for election years				
Battleground dummy	0.4950	0.5006	0	1
Super Tuesday dummy	0.0875	0.2829	0	1

* Includes only periods with primaries.

** Includes only periods without primaries.

Table 9: Variables Collected

Variable	Measured	Years	Source
Primary Dates	Date each Presidential primary was held, by state and party	1976-2008	Green Papers (for primaries) Frontloading HQ (for caucuses)
Clinch Dates	Date Presidential candidate was last remaining in contest for party nomination	1976-2008	Various sources
Battleground States	Competitive States in election based on polls (< 10 perecentage points between winner and loser)	1996-2008	Intrade Prediction markets, David Leip's Polling Report
	Competitive states in election based on ex-post results (< 10 perecentage points between winner and loser)	1976-1992	David Leip's Election Results
Income	Quarterly state earnings	1974-2008	Bureau of Economic Analysis (BEA)
Services Income	Quarterly state earnings in the "service" sector	1974-2001	BEA
Accommodations Income	Quarterly state earnings in the accommodations sector	1990-2008	BEA
Retail Income	Quarterly state earnings in the retail sector	1990-2008	BEA
Population	Annual state population interpolated by quarter	1974-2008	Census
GDP	Annual state GDP	1974-2008	BEA
Unemployment	Annual state unemployment rate	1974-2008	BLS
Campaign expenditures	All expenses by Presidential primary candidates spent in pursuit of the primary race Includes: administrative and campain expenses, i.e. hotel rooms, meals, local polling, Get-out-the-Vote, campaign events, money spent by staffers for catering meetings, rent, utilities, cable, internet, administrative supplies, staffer travel. Does not include advertisements	2004-2008	Center for Responsive Politics

Table 10: Variables Measured

Variable	Measured
Primary Dummy	Dummy Variable = 1 if there was a primary in state i in quarter t or $t+1$ based on state primary dates and clinch dates
Battleground States	Dummy Variable=1 if state i was competitive in election year, and primary nomination clinched for at least one party at time t
Primary on Super Tuesday	Dummy Variable=1 if state i had primary at time t and that day had the highest number of primary elections during that cycle
Per Capita Income Growth	$log\left(\frac{\text{Income}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Income}_{t-1}}{\text{Population}_{t-1}}\right)$
Per Capita Services Income Growth	Same as income, but only for 1974-2001
Per Capita Accommodations Income Growth	Same as income, but only for 1990-2008
Per Capita Retail Income Growth	Same as income, but only for 1990-2008
Population	Annual population data, by state (interpolated by quarter)
Spending Growth	$log(\text{Spending}_t) - \log(\text{Spending}_{t-1})$
Per Capita Spending Growth	$log\left(\frac{\text{Spending}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Spending}_{t-1}}{\text{Population}_{t-1}}\right)$

Appendix B: Election Information

Table 11: Battleground states by year

Alabama	1980, 1992, 1996
Alaska	1992
Arizona	1992, 1996, 2000, 2008
Arkansas	1980, 2000, 2004
California	1976, 1988
Colorado	1968, 1988, 1992, 1996, 2000, 2004, 2008
Connecticut	1980, 1992, 1996, 2008
Delaware	1976, 1980, 1992, 2004
Florida	1976, 1992, 1996, 2000, 2004, 2008
Georgia	1992, 1996, 2008
Hawaii	1976, 1980, 1988, 2004
Illinois	1976, 1980, 1988
Indiana	1976, 1992, 1996, 2008
Iowa	1984, 1992, 2000, 2004, 2008
Kansas	1976, 1992
Kentucky	1976, 1980, 1992, 1996
Louisiana	1976, 1980, 1992, 2000
Maine	1980, 1992, 2000, 2004
Maryland	1976, 1980, 1984, 1988
Massachusetts	1980, 1984, 1988
Michigan	1976, 1980, 1988, 1992, 2000, 2004
Minnesota	1980, 1984, 1988, 2000, 2004
Mississippi	1976, 1980, 1992, 1996
Missouri	1968, 1976, 1980, 1988, 1996, 2000, 2004, 2008
Montana	1980, 1988, 1992, 1996, 2008
Nevada	1976, 1992, 1996, 2000, 2004
New Hampshire	1992, 1996, 2000, 2004, 2008
New Jersey	1976, 1992, 2004
New Mexico	1976, 1988, 1992, 1996, 2000, 2004
New York	1976, 1980, 1984, 1988
North Carolina	1980, 1992, 1996, 2008
North Dakota	1976, 1996, 2008
Ohio	1968, 1976, 1992, 1996, 2000, 2004, 2008
Oklahoma	1976, 1992, 1996
Oregon	1968, 1976, 1980, 1988, 1992, 1996, 2000, 2004
Pennsylvania	1968, 1976, 1980, 1984, 1988, 1992, 2000
Rhode Island	1984
South Carolina	1980, 1992, 1996, 2008
South Dakota	1976, 1988, 1992, 1996, 2008
Tennessee	1980, 1992, 1996, 2000
Texas	1976, 1992, 1996
Vermont	1980, 1988, 2000
Virginia	1976, 1992, 1996, 2000, 2004, 2008
Washington	1976, 1988, 2000, 2004
West Virginia	1980, 1988, 2000
Wisconsin	1968, 1972, 1976, 1980, 1984, 1988, 1992, 2000
Wyoming	1992

Table 12: Super Tuesday states by year

Alabama	1980, 1984, 1988, 2008
Alaska	1980, 2008
Arizona	2008
Arkansas	1976, 1988, 2008
California	2000, 2004, 2008
Colorado	1996
Connecticut	1996, 2000, 2004, 2008
Delaware	1992, 2008
Florida	1980, 1984, 1988, 1992
Georgia	1980, 1984, 1988, 1996, 2000, 2004, 2008
Hawaii	1980, 1984, 1988, 2000
Idaho	1976, 2008
Illinois	2008
Kansas	1988, 2008
Kentucky	1976, 1988
Louisiana	1992
Maine	1996, 2000
Maryland	1988, 1996, 2000, 2004
Massachusetts	1984, 1988, 1996, 2000, 2004, 2008
Minnesota	1996, 2000, 2004, 2008
Missouri	1988, 1992, 1996, 2000, 2008
Montana	2008
Nevada	1976, 1984, 1988
New Jersey	2008
New Mexico	2008
New York	2000, 2004, 2008
North Carolina	1988
North Dakota	2000, 2004, 2008
Ohio	2000, 2004
Oklahoma	1980, 1984, 1988, 1992, 2008
Oregon	1976
Rhode Island	1984, 1988, 1992, 1996, 2000, 2004
Tennessee	1976, 1988, 1992, 2008
Texas	1988, 1992
Utah	2008
Vermont	1996, 2000, 2004
Virginia	1988
Washington	1980, 1984, 1988, 2004
West Virginia	2007

Appendix C: Robustness

Table 13: Per Capita Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000542***	0.00134***	0.000607***
	(0.000155)	(0.000259)	(0.000215)
Battleground State	0.000769	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 14: Per Capita Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000521***	0.00128***	0.000587***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000223	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects.
State-quarter observations. Drops IA, NH, SC.

Table 15: Results are robust restricting sample to 2004 and 2008 expenditures sample

	(1) Income	(2) Accom.	(3) Retail
Primary	0.00734***	0.0131***	0.00680***
	(0.00162)	(0.00273)	(0.00196)
Primary on Super Tuesday	-0.000656	-0.00935**	-0.00731*
	(0.00301)	(0.00443)	(0.00438)
Battleground State	-0.000263	-0.0114***	-0.00411***
	(0.00123)	(0.00188)	(0.00147)
Observations	658	658	658

Robust standard errors in parentheses

Includes quarter dummies

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

CHAPTER 23: EXPENDITURE MULTIPLIER

Consumption and Savings Function:

- Consumption is primarily a function of Yd (disposable income) or "after-tax" income. Although it is also influenced by the rate of interest, expectations about future Yd, wealth effects etc.
- if plot Consumption as a function of Yd it will have a positive vertical intercept ('autonomous consumption') and a positive slope but less than one (i.e, the slope of the consumption function is the coefficient on Yd in the Consumption equation and represents the Marginal Propensity to Consume (MPC). Therefore, $0<MPC<1$
- if plot the consumption function versus a 45 degree line (with the mathematical property that any point on the 45 degree line has the same vertical coordinate as horizontal coordinate, or $x = y$) then where Consumption intersects the 45 degree line is referred to as "breakeven level of Yd".
- at $Yd < Yd$ breakeven, then $C > Yd$ (the individual is 'dissaving' as savings <0)
- at $Yd > Yd$ breakeven, then $C < Yd$ and the individual is "saving", Savings >0.
- the Savings function is derived from the consumption function (if the consumption function changes then so does the savings function). For example, if

  $C = a + b(Y - T)$ where $a>0$, $0<b<1$ and $Yd= Y-T$

  then the implied savings function is:

  $S = -a + (1-b)(Y - T)$ where $(1-b) = MPS$ (marginal propensity to save)

Note: $MPC + MPS = 1$

- Mathematical example:

  if $C = 1000 + 0.80(Y - T)$ then the implied savings function is:

  $S = -1000 + 0.20(Y - T)$

where $MPC = 0.80$ and $MPS = 0.20$. See the graphs pg. 529

Effects of other variables on Consumption function:

- if the interest rate falls or expected future disposable income increases, then the consumption function shifts upwards and the implied savings function shifts downwards (see pg. 531)

Other Components of Aggregate Expenditure (AE):

i) Investment function:

- depends on interest rate, expected future profits. Not related to current GDP or Yd. Therefore, if we plot the investment function in diagram with Investment expenditures on the vertical axis and real GDP on the horizontal axis, the Investment (I) line is horizontal at I_0. That is, we assume that:

  $I = I_0$.

ii) Government expenditures:

- changes in government expenditures (G) or taxes (T) represents a "fiscal policy" decision of the federal government. Therefore, a change in G is a policy choice and does not respond automatically to the level of GDP (Y). So in a diagram, G is also assumed to be autonomous,

  $G = G_0$.

iii) Exports:

- exports represent Canadian goods sold abroad. The level of exports will depend primarily on the Canadian price level (P), foreign price level (Pf), the exchange rate (E) and foreign GDP (Yf). Therefore, once again, X does not respond to the level of Canadian GDP so exports are

autonomous.

$$X = X_0.$$

iv) Imports:

- depends on relative prices (Canadian and foreign prices), the exchange rate (E), and Canadian GDP (Y). As GDP (Y) increases, we buy more goods and services and some of these will be imported from the rest of the world. Therefore,

  Imports (M) = m Y where $0<m<1$ and m=MPM (marginal propensity to import)

Aggregate Expenditure function (AE):

- will have a positive intercept (see graph pg. 534)
- the slope of the AE function is given by:
  - slope of AE = MPC (1-t) - MPM where $0<t<1$ and t represents the tax **rate**
- Note if we have lump sum taxes, T = To (a constant) then t=0 and the slope of the AE function is just = MPC - MPM

- Numerical Example:

  If MPC = 0.80, MPM = 0.10 and t = 0.25 then the slope of the AE function is:
  slope of AE = 0.80 (1 - 0.25) - 0.10
  slope of AE = 0.50

Equilibrium GDP (Y):

- when AE = Y (planned spending = production) we have an equilibrium
- graphically this occurs anywhere along the 45 degree line with AE on the vertical axis and real GDP (Y) on the horizontal axis. Specifically, the equilibrium is where the given AE function intersects the 45 degree line. (see pg. 536)

Calculation of Equilibrium GDP (Y):

- Suppose you are given the following equations:

  C = 1000 + 0.80 (Y- T)
  I = 180
  G = 100
  X = 200
  M = 0.20 Y
  T = 100

- To find equilibrium GDP, follow these steps:
- **Step 1**: Calculate the AE equation by adding C, I G, X and M together and substitute the T value into the consumption equation

  AE = C + I + G + X - M
  so AE = 1000 + 0.80(Y -100) + 180 + 100 + 200 - 0.20 Y
  or AE = 1400 + 0.60 Y

-**Step 2:** Impose the equilibrium condition, AE = Y

  so 1400 + 0.60 Y = Y

and since the equilibrium condition has been imposed, the value of Y solved for is then equilibrium Y.

- **Step 3:** Solve for equilibrium GDP

  $0.40\ Y = 1400$

  so $Y = 3500$

The Multiplier:

- the definition of the multiplier is: $\text{multiplier} = \dfrac{\text{change in equilibrium Y}}{\text{change in autonomous spending}}$

- the formula for the expenditure multiplier is: $\text{multiplier} = \dfrac{1}{1 - \text{slope of AE function}}$

Example: If the MPC = 0.80, t = 0, and MPM = 0.05 then
the slope of the AE function is = 0.75 and the multiplier is = 4
Therefore, for everyone $1 increase in spending (whether it be from C, I, G, X) it will generate a $4 increase in equilibrium GDP.

- continuing the example from above where equilibrium Y = 3500, if full employment GDP (Y*) = 4300 then in order to get to full employment GDP the government could increase its spending by 200 (once subject to the multiplier, the overall increase in GDP is going to be $800 bringing the new equilibrium GDP level to $4300 (=Y*)

The Lump sum Tax multiplier:

- if the government has a lump sum tax (so the tax rate, t = 0),then a $1 increase in taxes would reduce Consumption expenditures by the value of the MPC (eg 0.80). This reduction in expenditures is then subject to the multiplier. The end result is that when taxes (T) change, equilibrium GDP changes according to the value of the tax multiplier,
- definition of the tax multiplier: $\text{tax multiplier} = \dfrac{-\text{MPC}}{1 - \text{slope of the AE function}}$

Example:
If the MPC = 0.80, t = 0 and MPM = 0.05 then the tax multiplier is:

$$\text{tax multiplier} = \frac{-0.80}{1 - 0.75}$$

then the tax multiplier is -3.2
The tax multiplier is always a negative number because from the definition of the tax multiplier above, we know that if taxes increase (decrease), then real GDP will decrease (increase) so the tax multiplier is negative.

- you use the tax multiplier to determine the required change in taxes to bring about full employment GDP. Suppose again that Y (eq'l) = 3500 and Y* = 4300 and the tax multiplier is -3.2

then from the definition of the tax multiplier:

$$\text{tax multiplier} = \frac{\text{change in equilibrium GDP}}{\text{change in taxes (lump sum)}}$$

so if the tax multiplier is -3.2 and to get to full employment GDP we want the change in equilibrium GDP to be +$800, then the change in taxes should be = 800/-3.2 or = -$250

The Multiplier and the Price Level:

- n the price level (P) was held constant in deriving the AE function. Therefore, if the price level changes it will shift the AE curve (due to the wealth effect and the substitution effects, see page 543).
- n specifically, if the price level increases, AE shifts down (the increase in price reduces real wealth and encourages international and intertemporal substitution so consumption expenditures decrease and imports increase lowering equilibrium GDP). See graphs on page 544.

Derivation of the AD curve:

- n can derive the AD curve (from chapter 22) by changing the price level and tracing out what happens to equilibrium GDP following the shift in the AE curve. See page 544.
- n we can also trace out the effects of changes in other variables (eg changes in the interest rate or exchange rate etc) on the AD curve itself. See page 545. If the AE curve shifts upwards due to any effect but a change in price, then the AD curve will shift in response. See page 545.

Note: you should read over the Appendix to Chapter 23 (the mathematical note at the end of the chapter).

Todd S. Jones provided the following information as a proponent of the proposal to the State Auditor's office.

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December 16, 2013

VIA EMAIL TO FISCALNOTE@AUDITOR.MO.GOV
Hon. Tom Schweich
State Auditor
301 West High Street, Office 880
Jefferson City, Missouri 65102

Re: *Submission for Fiscal Note Summary for Initiative Petition 2014-032*

Dear Auditor Schweich,

I submit the following proposed fiscal impact for the Initiative Petition that I filed on May 3, 2013, which is designated Initiative Petition 2014-032.

As an initial matter, I request that the Auditor place the process of preparing a new fiscal note and fiscal note summary on hold pending the resolution of Appeal No. WD77056, which is currently pending in the Missouri Court of Appeals, Western District. Oral argument for that appeal is currently scheduled for January 9, 2014. The preparation of a second fiscal note and fiscal note summary while the legal challenges to the first one are still under review by the courts threatens to cause confusion and generate further unnecessary litigation. Further, proponents have moved for a stay pending appeal of the circuit court's judgment in that case, which the Court of Appeals has not yet ruled upon. Proponents respectfully request that the Auditor's Office await the resolution of that appeal before preparing a second fiscal note and fiscal note summary.

In the alternative, if the Auditor's Office is unwilling to place this process on hold per proponent's request, I request that the Auditor's Office reissue exactly the same Fiscal Note Summary for Initiative Petition 2014-032 as it issued before. Prior to certifying the official ballot title for the "Missouri Campaign Contribution Reform Initiative" that I submitted on May 3, 2013, Secretary of State Jason Kander opened the proposed initiative petition for public comment. Marc H. Ellinger, the attorney for Rex Sinquefield, filed a submission based on contentions that were speculative and without merit. Following certification of the official ballot title, Mr. Ellinger filed a Petition in Cole County Circuit Court on behalf of his clients, including Rex Sinquefield (the "Petition"), claiming, among other things, that the Fiscal Note and Fiscal Note Summary were insufficient and unfair. The contentions in Mr. Ellinger's submission and the Petition were without merit. The State Auditor's original Fiscal Note Summary is sufficient and fair and should be reissued.

Both Mr. Ellinger's submission to the State Auditor and Plaintiffs' claims in the Petition fail to show that the State of Missouri will incur increased costs and lost revenue as a result of passage of the "Missouri Campaign Contribution Limit Initiative."

The claims Plaintiffs make in the Petition fail for the following reasons. First, Plaintiffs contend that the Fiscal Note Summary "is insufficient and/or unfair because it does not describe the costs to the state for the federal and state litigation to challenge the constitutionality of the proposed measure." Pet. ¶ 33; *see also id.* ¶ 45(a) (same allegation made to both the Fiscal Note and the Fiscal Note Summary). This claim has no merit. The Fiscal Note states: "Officials from the Attorney General's office indicated that they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources, but should significant litigation result, may seek future appropriations."

Fiscal Note, at 2. Plaintiffs do not, and cannot, dispute that this statement accurately reports the comments received by the Auditor from the Attorney General's Office. The Auditor's Office had no duty to conduct any independent assessment of this estimate, other than reviewing it for reasonableness. *Mo. Mun. League v. Carnahan,* 303 S.W.3d 573, 582 (Mo. App. W.D. 2010). Moreover, Plaintiffs have no plausible basis to dispute the Auditor's conclusion that this submission was reasonable. It is common knowledge that the Attorney General's Office employs numerous attorneys on staff who are available to defend legal and constitutional challenges to state laws. It is highly unlikely that the Attorney General will be forced to hire permanent staff or seek extraordinary appropriations to handle a (purely legal) First Amendment challenge to the ballot initiative.

Second, Plaintiffs allege that "the Fiscal Note Summary is insufficient and/or unfair because it does not disclose the potential costs as indicated by the Department of Corrections." Pet. ¶ 34; *see also id.* ¶ 45(b). This allegation has no merit. The Fiscal Note reports that officials from the Department of Corrections "cannot predict the number of new commitments which may result from the creation of offence(s) outlined in the proposal," since "an increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court." Fiscal Note, at 2. The Department of Corrections estimated the additional cost per inmate, but stated it had no way to predict the actual number of additional inmates that might result from the initiative, if any. *Id.* Plaintiffs do not, and cannot, dispute that this language accurately reported the submission received from the Department of Corrections.

Furthermore, Plaintiffs cannot reasonably dispute that the Fiscal Note Summary accurately summarizes this portion of the Fiscal Note. The Fiscal Note Summary states

that "[i]t is estimated that this proposal will increase state government costs by ***at least*** $118,000 annually...." Pet. ¶ 32 (emphasis added). The Fiscal Note Summary thus accounts for the remote possibility that additional costs due to incarceration might render the costs to state government higher than the $118,000 predicted by the Missouri Ethics Commission. Within the 50-word constraint imposed on fiscal note summaries, this language is clearly adequate. *See Mo. Mun. League v. Carnahan*, 364 S.W.3d 548, 556-57 (Mo. App. W.D. 2011) (holding that "plaintiffs have cited no authority that to be meaningful a fiscal note must be detailed as to actual amounts of estimated costs").

Third, Plaintiffs allege that the Fiscal Note Summary "is insufficient and/or unfair because it does not describe the costs associated with lost revenue to the state of decreased campaign expenditures," as well as "the costs associated with lost revenue to local governments as a result of decreased campaign expenditures." Pet. ¶¶ 35, 36; *see also id.* ¶ 45(c), (d) (same). Plaintiffs contend that the Fiscal Note Summary ought to report, as a result of decreased campaign spending, that "[a]nnual state government revenue will decrease by at least $7.39 million per year," and that "[a]nnual local government revenue will decrease by at least $1.2 million per year." Pet. ¶ 39.

These contentions have no merit. The only submission received by the Auditor that referred to possible lost revenues to state and local governments due to decreased campaign expenditures was the submission of Marc H. Ellinger as an opponent of the initiative, which occupies 64 pages of the Fiscal Note. This "Ellinger Submission" is the source of Plaintiffs' estimated costs of $7.39 million to state government and $1.2 million to local governments. *See* Ellinger Submission, at 9-10. The Auditor's Office gave less weight to the Ellinger Submission because it was deemed "speculative." Accordingly, the Fiscal Note Summary

reports that "[a]ny potential impact to revenues for state and local governmental entities is unknown." Pet. ¶ 28.

In a nutshell, the Ellinger Submission argues that a decline in campaign spending will result in lost state and local revenues due to lesser income and sales taxes, and that this impact can be reasonably quantified by extrapolating from spending figures gleaned from Governor Nixon's 2012 campaign. *Id.* at 4-10. This argument is inherently and irreducibly speculative. It rests on a long series of unproven and unproveable assumptions, many of which are certainly false. Here are eleven speculative, unjustifiable assumptions inherent in its analysis:

(1) The Ellinger Submission assumes that contribution dollars donated to campaigns would not otherwise be spent or productively invested in the Missouri economy, if they were not donated to campaigns. *Id.* at 7. The Submission includes no accounting of how such dollars would have been equally or more productively spent to grow the Missouri economy and boost tax revenues if they were spent or invested elsewhere, including in more productive sectors of the economy.

(2) The Ellinger Submission assumes that, if the initiative becomes law, the amount of contributions will decrease in mathematical lockstep with the limitation levels. *Id.* at 5; *id.* at 7 ("[T]he proposed measure would have reduced Nixon's total campaign contributions by 72.58%."). This assumption is unproveable, and highly dubious. Notably, it overlooks the obvious likelihood that the regulations will result in larger numbers of smaller contributions, as smaller contributors are encouraged to participate in the political process by the decreased influence of the big-dollar contributors (such as Plaintiffs).

(3) The Ellinger Submission assumes that the vast majority of spending on Missouri campaigns is expended within the Missouri economy. *Id.* at 7. This assumption is not justified. In fact, the Ellinger Submission later admits that 75 percent of the Nixon campaign's budget went to an "out-of-state media company." *Id.* at 6. Spending and investing that money for non-campaign purposes could be more likely to keep it local to the Missouri economy.

(4) The Ellinger Submission assumes that the amount of money spent by the Governor's campaign during the 2012 election cycle would be the same as the amount of money spent by the Governor's campaign in future election cycles,

but for the effect of the initiative. *Id.* at 5. Obviously, no one can possibly predict or quantify this.

(5) The Ellinger Submission assumes that the proportion of contributions in excess of the initiative's proposed limitations was the same for Governor Nixon's 2012 campaign as it was for *every other statewide campaign* in Missouri. *Id.* at 8. No support is provided for this assumption, and it is almost certainly false. Undoubtedly, Governor Nixon had much greater ability to raise big-dollar donations from high rollers than, say, a candidate for first-term state representative or a candidate for judicial office.

(6) The Ellinger Submission assumes that the proportion of campaign spending on each category of media, payroll, field work, state and local taxes, and other expenditures would be the same for Governor Nixon's campaign as for every other statewide campaign. *Id.* at 7-8. Again, there is no basis for this assumption, and it seems highly unlikely to be true.

(7) The Ellinger Submission assumes that the vast majority of media spending by the Nixon campaign (which constituted the vast majority of Governor Nixon's spending) ultimately benefited in-state media providers. *Id* at 6; *id* at 7 (assuming that "75% of the 'media' expenditures" were directed back into Missouri's economy). This assumption is contradicted by the Submission's own statements. The Submission concedes that, of the $9 million spent on media by the Nixon campaign, *"all* of that money went to an out-of-state media company." *Id.* (emphasis added). The Submission provides no support for its unrealistic assumption that the out-of-state company redirected the majority of that money to local Missouri companies. On the contrary, much of it was undoubtedly spent on media production, and a large proportion of the advertising revenue was undoubtedly directed to national networks.

(8) In purporting to calculate lost income tax revenues, the Ellinger Submission explicitly "assum[es] that half of the media spending is paid out to employees in salaries." *Id* at 9. No basis for this assumption is provided, and there is no way of knowing whether it is remotely plausible.

(9) The Ellinger Submission assumes that half of the unspecified "other Missouri expenditures" by the Nixon campaign were subject to state sales tax. *Id.* at 9. No basis for this assumption is provided, and there is no way to know whether it is true.

(10) The Ellinger Submission assumes that its purported loss of $7.39 million in state revenues for the year 2012 should be extrapolated to every other year. *Id.* at 9; *see also* Petition ¶ 39 (alleging, based on the Ellinger Submission, that ***"annual*** state government revenue will decrease by at least $7.39 million per year.") (emphasis added). This assumption is plainly invalid, because 2012 was

an election year, with peak campaign spending. Campaign spending is much lower in non-election years. In other words, the Ellinger Submission "cherrypicks" a year of high campaign spending (2012) and claims that the initiative's fiscal impact would be the same in years of low campaign spending (e.g. 2013, 2015).

(11) The Ellinger Submission openly concedes that 'there has not been a comprehensive study regarding the fiscal impact of state elections on Missouri state and local governments," *id.* at 3, and that the Lessem & Urban study attached to the Ellinger Submission "does not directly quantify the amount by which Missouri state election spending stimulates the Missouri economy." *Id.* at 4. In fact, the Lessem & Urban study does not address the Missouri economy at all, and does not purport to analyze the economic impact of campaign spending with and without reasonable contribution limitations. Its relevance, therefore, is tenuous at best.

In sum, the Ellinger Submission is based on a whole series of unsupported and unsupportable assumptions, many of which are plainly false or highly dubious. The Auditor's Office was undoubtedly justified in assigning less weight to this submission on the ground that it was "speculative." Plaintiffs have no valid basis to challenge the Fiscal Note Summary's statement that "[a]ny potential impact to revenues for state and local governmental entities is unknown." Pet. ¶ 28.

Even if the unsupported and highly dubious assumptions made by Plaintiffs and Mr. Ellinger were taken at face value, Colorado is prime example that campaign contribution limits and the elimination of direct union and corporate contributions to candidates does not prevent candidates and parties from raising the same amount of money for their campaigns than they would have prior to limits.

In 2002, voters in Colorado overwhelmingly passed Amendment 27 which had limits indexed to inflation of $200 and $500 for various state office holders and prohibited unions and corporations from direct donations to candidates. Statistics compiled by the Colorado Secretary of State show that the money flowing into political campaigns is still as vibrant as ever.

Colorado Campaign Contributions and Loans 2000-2013					
Year	Democratic Candidates	Republican Candidates	Issue Committees	All Others	Total
2000	$3,838,929.81	$3,172,477.90	$13,811,026.35	$5,940,598.47	$26,763,032.53
2001	$959,851.64	$3,631,674.22	$659,412.82	$3,506,823.45	$8,757,762.13
2002	$5,277,988.31	$6,257,629.19	$7,483,919.76	$30,297,648.03	$49,317,185.29
2003	$185,135.56	$277,648.97	$11,923,944.13	$1,767,981.28	$14,154,709.94
2004	$3,341,247.68	$2,523,329.85	$19,574,464.08	$4,796,276.04	$30,235,317.65
2005	$596,618.29	$2,848,632.35	$12,408,285.34	$2,246,489.52	$18,100,025.50
2006	$6,047,305.67	$9,689,460.42	$19,863,940.22	$13,726,226.11	$49,326,932.42
2007	$614,418.20	$190,940.21	$970,688.23	$3,932,375.80	$5,708,422.44
2008	$4,934,031.53	$4,099,269.68	$77,922,988.55	$17,645,355.88	$104,601,645.64
2009	$854,048.24	$1,185,274.60	$950,827.21	$6,322,782.66	$9,312,932.71
2010	$8,985,072.14	$4,745,247.37	$11,778,190.89	$32,041,808.61	$57,550,319.01
2011	$318,219.45	$363,272.97	$2,749,572.89	$7,788,185.89	$11,219,251.20
2012	$3,127,419.57	$3,635,500.53	$7,421,735.51	$37,406,092.36	$51,590,747.97
2013	$1,217,465.54	$820,948.78	$17,323,189.29	$11,957,119.39	$31,318,723.00
Total	$40,297,751.63	$43,441,307.04	$204,842,185.27	$179,375,763.49	$467,957,007.43

Source: Colorado Secretary of State Website, http://tracer.sos.colorado.gov/PublicSite/Homepage.aspx?(

As seen in the chart above, the Colorado limits, which are much lower than the ones proposed in the "Missouri Campaign Contribution Reform Initiative," have not had a negative impact on the amount of money in politics, and, consequently, the amount of revenue available to tax by local and state governments.

Conclusion

Mr. Ellinger's Submission and the Plaintiffs' claims of the "significant negative economic impact on both the state and local governments in Missouri" of the "Missouri Campaign Contribution Reform Initiative" are speculative and without merit and were properly treated as speculative by the State Auditor. The State Auditor's original Fiscal Note Summary is sufficient and fair and should be reissued.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Mental Health,** the **Department of Social Services,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

It is estimated this proposal will increase state government costs by at least $118,000 annually and have an unknown change in costs for local governmental entities. Any potential impact to revenues for state and local governmental entities is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-033)

Subject

Initiative petition from Todd Jones regarding a proposed constitutional amendment to Article IX. (Received May 6, 2013)

Date

May 28, 2013

Description

This proposal would amend Article IX of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed petition.

Officials from the **Department of Elementary and Secondary Education** indicated:

The non-public enrollment count as of Fall 2012 was 77,257. Currently the average distribution of state funding is $3,285 per weighted average daily attendance. It would be impossible to know, but if each non-public school student received the same amount, the potential cost to the state for foundation formula equivalent spending could be $253,789,245 based upon current amounts distributed through the formula.

It should be noted that the non-public enrollment count is voluntarily reported to the department. The reported number does not include all non-public students.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Corrections** indicated the passage of this proposal may have an unknown positive impact for their department in that it would allow for contracting with entities that could provide additional educational or religious opportunities to offenders.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal has no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated this initiative petition has no fiscal impact to their office.

Officials from the **City of Columbia** indicated it is impossible to determine costs for their city. Repealing this prohibition could create pressure to use tax revenue to support special interests that may not reflect the general public interest. On the other hand, where these organizations are capable of providing a needed service, they might be legitimate bidders for contracts.

Officials from the **City of Jefferson** indicated they do not believe there will be a fiscal impact if that petition becomes law.

Officials from the **City of Kansas City** indicated this initiative petition has no direct fiscal impact on their city.

Officials from the **City of Kirkwood** indicated the city has never and won't donate public money to NFP or church. No impact.

Officials from the **City of Raymore** indicated they anticipate a fiscal impact. Officials did not respond to follow up questions to clarify the accuracy of the comments provided or further explain the impact.

Officials from the **City of St. Joseph** indicated this proposal could have an indirect impact on expenditures if any church-related organization could start petitioning the city for money that would otherwise go elsewhere. In the bigger picture, it's a direct assault on the separation of church and state.

Officials from **University of Missouri** indicated this initiative petition will have no fiscal impact on their college.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Natural Resources,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

The potential costs or savings to state and local governmental entities are unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-038)

Subject

Initiative petition from Whitfield Montgomery regarding a proposed constitutional amendment to Article III. (Received May 30, 2013)

Date

June 18, 2013

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Whitfield Montgomery provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

There is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Social Services** indicated this initiative petition has no fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no impact to the their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from **Greene County** indicated it doesn't appear to impact their county.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated no impact on the revenues or expenditures of their city.

Officials from **Metropolitan Community College** indicated this would have no direct fiscal impact on their college.

Whitfield Montgomery provided the following information as a proponent of this initiative petition.

The Consumer Borrowers' Bill of Rights will have no impact on state or local government revenues. This proposal makes legally enforceable a series of best practices for consumer lending. This proposal allows consumer lending to occur in Missouri while protecting consumers from unethical (soon to be illegal) practices. Accordingly, no legitimate economic activity will be lost in the state and no loss to state and local government revenues will occur. Costs to enforce the measure are minimal and can be absorbed by existing state and local budgets.

The State Auditor's office did not receive a response from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Public Safety,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

There are no estimated costs or savings expected for state and local governmental entities if this proposal is approved by voters. Increased fine revenue resulting from this proposal could reduce state government expenses and increase revenue for some school districts, but the fiscal impact is unknown and likely insignificant.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-039)

Subject

Initiative petition from Tammy O'Meara regarding a proposed amendment to Chapter 302 of the Revised Statutes of Missouri. (Received June 25, 2013)

Date

July 15, 2013

Description

This proposal would amend Chapter 302 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of this initiative petition.

Officials from the **Department of Elementary and Secondary Education** indicated there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated the proposal could result in one-time costs of $3,722.

They said the proposed language seems to be for enforcement purposes only and is not intended to change the motorcycle permit or endorsement issuance provisions defined under Chapter 302, RSMo.

The petition does not clearly outline if the intent is for the department to implement changes to limit issuance or restrict the motorcycle endorsement, temporary motorcycle instruction permit based on the proposed enforcement provisions.

Additionally, the department sees no requirement to maintain any proof of compliance with the motorcycle rider training course provisions of this proposed language. There will be no tracking of compliance or non-compliance with the training requirement as proposed.

If the intent is to implement restrictions to be posted to the motorcycle license or motorcycle endorsement for persons less than 21 years of age or to require verification of completion of motorcycle rider training course to retain motorcycle privileges as proposed under Section 302.021(2), the petition should include such provisions in Section 302.130, 302.132, 302.173, 302.720 and 302.735, RSMo, pertaining to the application and issuance of temporary instruction permits and driver licenses.

Administrative Impact

Driver License Bureau

- Requires programming and testing of the Missouri Driver License System to develop a new conviction code for "motorcycle passenger prohibition."
  - The Driver License Bureau estimates 40 hours of system testing for one Administrative Analyst I; 40 hours @ $24 per hour = $960

- Requires updates to the following:
  - Letters;
  - Forms;
  - Procedures;
  - Department's website; and
  - Missouri Driver Guide.
  - Administrative Analyst III – 40 hrs @ $22 $880
  - Management Analysis Spec I – 40 hrs @ $20 $800

Total = $1,680

OA-ITSD Impact

The IT portion of this fiscal impact is calculated at 40 hrs valued at $27.05 per hour = $1,082.

The new law will result in an unknown increase in convictions. The increase in convictions will also increase the number of point warning and suspension/revocation notices issued for accumulation of points.

There are no statistics to determine how many additional convictions the department may be required to process; however, one FTE processes 320 convictions per day. If the volume of convictions received for processing exceeds 320 per day, then additional FTE will be required and requested through the appropriate process.

Revenue Impact

Unknown - Reinstatement fees collected will be distributed 75% Highway Funds, 15% Cities, and 10% Counties.

Technical errors

The new provisions added for Section 302.021, RSMo, are not formatted correctly. It is suggested to change 1) to 302.021.1 and then the appropriate statutory structure shall follow.

The language proposed for Section 302.021(2), RSMo, "which is approved by the License Bureau of the Missouri Department of Revenue" needs to be changed to "which has been approved pursuant to the regulations of the Missouri Department of Transportation Highway Safety Division."

Officials from the **Department of Public Safety** indicated they anticipate that any costs associated with this proposal can be absorbed with existing resources.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal has no impact on their office. This proposal may have an impact on the Department of Revenue.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition could have impact to their office.

For the purpose of the proposed change to Chapter 302, and as a result of excessive caseloads, the Office of the State Public Defender CANNOT assume existing staff will provide competent, effective representation for any indigent clients faced with the crimes associated with motorcycle passenger prohibition. The first violation of this offense would become a new Class C Misdemeanor unless the actor has previously been convicted of this offense, in which case is would become a new Class B Misdemeanor, unless the actor has previously been convicted twice of this offense, in which case the offense would become a new Class A Misdemeanor.

The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Office of the State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

Officials from **Greene County** indicated they are not aware of any impact to their county. The officials indicated they forwarded the proposed initiative regarding motorcycle law to the Sheriff's Department for additional input.

No additional information was provided by county officials.

Officials from the **City of Jefferson** indicated they expect no fiscal impact if this petition becomes law.

Officials from the **City of Kansas City** indicated this has no fiscal impact on their city.

Officials from the **City of Kirkwood** indicated they have determined that there is no fiscal impact but enforcement may be an issue.

Officials from the **City of St. Joseph** indicated it would have no impact on their city.

Officials from **Metropolitan Community College** indicated this petition would have no direct fiscal impact on their college.

The State Auditor's office did not receive a response from the the **Missouri Senate, the State Treasurer's Office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau, the City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

One-time costs to state governmental entities could be at least $3,700 with the total potential annual costs being unknown, but probably limited. Local governmental entities expect no potential costs. Possible increased revenue to state and local governmental entities is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-040)

Subject

Initiative petition from Jewell Patek regarding a proposed constitutional amendment to Article III. (Received July 2, 2013)

Date

July 22, 2013

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources. They may seek additional appropriations if there is a significant increase in the number of complaints filed by consumers.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they assume that this proposal will have no fiscal impact for their department.

Officials from the **Department of Social Services** indicated this proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated no impact on their city.

Officials from the **City of Jefferson** indicated they do not believe there will be a fiscal impact if this petition becomes law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Kirkwood** indicated no impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this would have no fiscal impact on their city.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

The State Auditor's office did not receive a response from the **Department of Agriculture, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

State and local governmental entities expect no significant costs or savings if this proposal is approved by voters.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-041)

Subject

Initiative petition from Whitfield Montgomery regarding a proposed constitutional amendment to Article III. (Received July 2, 2013)

Date

July 22, 2013

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Whitfield Montgomery provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources. They may seek additional appropriations if there is a significant increase in the number of complaints filed by consumers.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated:

There is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they assume that this proposal will have no fiscal impact on their department.

Officials from the **Department of Social Services** indicated this proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no impact to the their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated no impact on their city.

Officials from the **City of Jefferson** indicated they do not believe there will be a fiscal impact if this petition becomes law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Kirkwood** indicated no impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this would have no fiscal impact on their city.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

Whitfield Montgomery provided the following information as a proponent of this initiative petition.

The Consumer Borrowers' Bill of Rights will have no impact on state or local government revenues. This proposal makes legally enforceable a series of best practices for consumer lending. This proposal allows consumer lending to occur in Missouri while protecting consumers from unethical (soon to be illegal) practices. Accordingly, no legitimate economic activity will be lost in the state and no loss to state and local government revenues will occur. Costs to enforce the measure are minimal and can be absorbed by existing state and local budgets.

The State Auditor's office did not receive a response from the **Department of Agriculture, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau, t**he **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

State and local governmental entities expect no significant costs or savings if this proposal is approved by voters. Increased fine revenue resulting from this proposal could reduce state government expenses and increase revenue for some school districts, but the fiscal impact is unknown and likely insignificant.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-042)

Subject

Initiative petition from Whitfield Montgomery regarding a proposed constitutional amendment to Article I. (Received July 2, 2013)

Date

July 22, 2013

Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Whitfield Montgomery provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources. They may seek additional appropriations if there is a significant increase in the number of complaints filed by consumers.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated:

There is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they assume that this proposal will have no fiscal impact on their department.

Officials from the **Department of Social Services** indicated this proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated no impact on their city.

Officials from the **City of Jefferson** indicated they do not believe there will be a fiscal impact if this petition becomes law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Kirkwood** indicated no impact on their city.

Officials from the **City of Raymore** indicated the effect of this would be minimal at best, therefore we do not feel it would have any fiscal impact.

Officials from the **City of St. Joseph** indicated this would have no fiscal impact on their city.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

Whitfield Montgomery provided the following information as a proponent of this initiative petition.

The Consumer Borrowers' Bill of Rights will have no impact on state or local government revenues. This proposal makes legally enforceable a series of best practices for consumer lending. This proposal allows consumer lending to occur in Missouri while protecting consumers from unethical (soon to be illegal) practices. Accordingly, no legitimate economic activity will be lost in the state and no loss to state and local government revenues will occur. Costs to enforce the measure are minimal and can be absorbed by existing state and local budgets.

The State Auditor's office did not receive a response from the **Department of Agriculture, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau, t**he **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

State and local governmental entities expect no significant costs or savings if this proposal is approved by voters. Increased fine revenue resulting from this proposal could reduce state government expenses and increase revenue for some school districts, but the fiscal impact is unknown and likely insignificant.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-045)

Subject

Initiative petition from Barbara Swanson regarding a proposed constitutional amendment to Article IX. (Received August 15, 2013)

Date

August 30, 2013

Description

This proposal would amend Article IX of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known direct fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact is anticipated for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

The petition language states that a maximum of $90 million could be claimed as tax credits in a year. So it would appear that the total loss of revenue to the state would be $90 million. Since a person can only claim half of the money donated as a tax credit, there is a maximum of $180 million donated in a year. This is distributed by the Commissioner in the following formula: 50% to public school foundations, 40% for scholarships to private schools, and 10% to support special education programs. The way this is written, public schools in general could potentially receive $90 million per year; but not all school districts are going to have foundations and as such not all school districts would receive funds.

If provision 11.7 were not in the proposal, a school district's state aid would not be impacted. The information below further explains the issue. The example uses the data from Adair County R-1 and is meant simply for illustrative purposes. Numbers will vary dramatically from district to district; however, the fact remains that any money a school district receives from a foundation will be new money to the district and will not impact the district's state aid, regardless of the section 11.7 provision.

There is a local effort calculation in the formula. It consists of the following categories of local revenue:

Local Property Tax Effort
1. Assessed Valuation $11,127,150
2. Performance Tax Levy x $3.43
3. Local Tax Revenue (Line 1 / 100 x Line 2) $381,661.25 4. Minus Collector and Assessor Fees (2.62% x Line 3) - $9,999.52 5. Net Local Tax Revenue (Line 3 - Line 4) $371,661.72 2004-2005 Incidental + Teacher Fund Receipts 6. School District Trust Fund (Prop C) x 1/2 $120,856.36 7. Financial Institution Tax + $0.00 8. Merchant's and Manufacturer's Tax + $80.19 9. In Lieu Of Tax + $1,725.21 10. Fines, Escheats, etc. + $13,763.71 11. State Assessed Utilities + $79,505.39 12. Federal Properties + $0.00 13. Local Earnings and Income Taxes + $0.00 14. Total Receipts (Sum Lines 6 through 13) $215,930.86 15. Total Local Effort (Local Property Tax Effort + Receipts) $587,592.58 (Line 5 + Line 14)

These are numbers from FY05 and unchangeable except if fines increase or assessed valuation decreases. If either of these happens it would cause the local effort total to either increase (in the case of fines) or decrease (in the case of assessed valuation). Because the local effort is subtracted from the basic formula calculation an increase or decrease could have an effect on funding. However, money from a foundation does not

fall into any of the above categories and even if it did only one category negatively impacts funding and that is fines.

Officials the **Department of Higher Education** indicated they do not anticipate any cost or savings to their department if this measure were to be adopted.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department. However, this petition, if passed, may have an unknown reduction of premium tax revenue collected by the state.

It is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by the proposed tax credit.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Revenue** indicated this proposal would have the following estimated net effect on all state funds:

Reduced tax revenue of $90,000.000 for fiscal year 2014, $91,800,000 for fiscal year 2015, and $93,636,000 for fiscal year 2016.

Increased operating expenses for salaries, fringe benefits and equipment and expenses of $142,400 in fiscal year 2014, $122,094 in fiscal year 2015, and $123,271 in 2016.

This tax credit creates up to a $90.0 million negative impact on total state revenue annually. The maximum amount of the tax credit will be adjusted using the Consumer Price Index (CPI) each year thereafter.

If approved by voters, this petition will reduce state revenues by up to $90 million in the first year, and increasing by the amount of the Chained Consumer Price Index for subsequent years.

The initiative petition creates the "Children's Education Initiative."

Taxpayers may receive a tax credit for donations made to a Children's Education Foundations (Foundation). The petition further provides definitions for terms applicable to this initiative.

A taxpayer claims a tax credit against the taxpayer's state tax liability of 50% of the amount contributed to the Foundation. The donation cannot directly benefit the taxpayer or the taxpayer's dependent. The credit cannot exceed the taxpayer's state table liability and no taxpayer may claim more than $50,000 per taxable year. The initiative caps the credit at $90 million, adjusted annually for inflation.

The Commissioner of Education annually allocates credits among the specified purposes as defined in subsection 6.

The department will need to make form changes.

The department and ITSD-DOR will need to make programming changes to various tax systems.

The IT portion of the fiscal impact is estimated with a level of effort valued at $27,722.

The value of the level of effort is calculated on 840 FTE hours.

The department expects additional staff to be needed in the following divisions:

Personal Tax:
Section 11.4
One (1) Revenue Processing Technician I (Range 10, Step L) per 4,000 credits claimed

One (1) Revenue Processing Technician I (Range 10, Step L) per 2,400 pieces of correspondence

Corporate Tax:
Section 11.4
One (1) Revenue Processing Technician I (Range 10, Step L) per 4,000 tax credits redeemed with CARES phones and license

Officials from the **Department of Social Services** indicated by granting state tax credits, this proposal has the potential to reduce total General Revenue. The impact, if any, to their department will depend on the appropriations process.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated Budget & Planning assumes this proposal may reduce general and total state revenues up to $90 million in the first year after its approval. This proposal may reduce general and total state revenues in differing amounts in succeeding years, depending on the rate of change in the price index described.

Budget & Planning notes that any monies received by a public school district as a result of this program shall not be counted as revenues in determining state aid to that district.

Technical Comment:

This proposal limits the amount of tax credits that can be claimed annually to $90 million. Budget & Planning assumes "claimed" is equivalent to "redeemed" in this context. However, there is no limit on the amount of qualifying contributions that can be made. Foundations may receive donations requiring an allocation of tax credits that exceeds the described limit. Or, it is possible in later years that the aggregate amount of credits carried forward plus newly earned credits exceeds this limit. In these situations, it is unclear how the $90 million in available credits is to be allocated.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of

$434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated it is estimated that this initiative petition will have no effect on their office.

Officials from the **City of Columbia** indicated no discernible impact on their city.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition become a law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated this bill would have no fiscal impact on the city.

Officials from the **Cape Girardeau 63 School District** indicated it appears this petition would reduce the amount of revenue available to fund the foundation formula for Missouri public schools since it provides a 50% tax credit for anyone who makes donations to private and parochial schools. If you take $90 million out of educational funding, it is equal to about a 3% reduction in the formula. The officials indicated for their school district, 3% equals about $250,000 that would be lost each year.

Officials from the **Hannibal 60 School District** indicated please be advised that they are opposed to the subject Initiative Petition. They believe that this petition would have a negative impact on Public School Funding as outlined below. (An exact dollar figure is not determinable):

- Reduction in revenues to Public Schools
- Possibility of Micro management from large donors.

Public school state funding would be adversely impacted due to a reduction in state revenues as a result of the tax credits to the donors.

Officials from the **Rockwood R-VI School District** indicated their concern about this initiative is that such credits will take from resources available to all school districts. Since the state funding formula for K-12 is already underfunded by $600 million, it is imperative that the state does not divert further funds away from

education. Some may argue that funds from this initiative are supposed to go to support education. First, a local school board makes decisions with public funds to maximize the opportunities for all public school students. Taking money away from state funding and placing it in the hands of a foundation will dilute the effectiveness of each school district. There will also be additional administrative overhead in the foundation which will further erode funds available to students. It also takes public funds (via tax credits) and directs some toward private schools that don't have the same responsibilities. If someone wants to donate funds for these purposes, they should have the right to do so but the state should not include incentives that take away from funds available to all districts.

Officials from **University of Missouri** indicated this initiative petition has no financial impact on their university.

The State Auditor's office did not receive a response from the **Department of Labor and Industrial Relations,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

Any decrease in state revenue will depend on the redemption of tax credits issued related to this proposal, initially limited to $90 million per year. Increased annual state operating expenses are expected to be initially about $120,000. Each individual school district will experience an unknown annual change in revenue.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-047)

Subject

Initiative petition from John Elliott regarding a proposed constitutional amendment to Article V. (Received August 26, 2013)

Date

September 13, 2013

Description

This proposal would amend Article V of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Election Board.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Social Services** indicated this petition will not have any fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition, 14-047, would increase the number of Missouri Supreme Court judges from seven to nine. There will be direct election of all judges, in partisan political contests. The proposal will have one Supreme Court judge elected from each of the state's eight congressional districts, with a statewide election for the ninth judge.

The cost of this initiative would be $7,320,114. This includes the construction of an addition of 8,200 square feet to the Supreme Court Building. The cost would be approximately $4,500,000. The addition to the current building must include the historical nature of the building and matching the existing décor.

Additional official station travel costs would be incurred if judges were required to come from different congressional districts. Estimated increase to in-state travel expense would be $20,000.

One Time Expense			Re-occurring Expense
Statutory Judge's salary	(2)		$295,182
Judge's benefits			$224,921
Judge's office staff budget	(2)		$301,868
Staff benefits			$ 159,235
Court Marshals	(2)		$ 74,688
Court Marshall benefits			$ 39,398
Official Station costs	(2)		$ 10,000
Other travel	(2)		$ 20,000
Cell phones	(2)		$ 2,400
Annual Phone Charges			$ 4,032
Installation of new office Telephones	(16)	$ 6,400	
Laptop Computers	(8)	$ 8,968	$ 2,242
Computer Monitors	(16)	$ 2,416	$ 604
Copy machines	(2)	$ 6,000	
Printers	(6)	$ 4,800	$ 1,200
Office Furniture	(8)	$ 16,000	
Court vehicle	(1)	$ 24,000	

Relocation Cost (2 years)	$ 923,000	
Utilities for two years	$ 110,760	
Networking cost for two Years including installation	$ 22,000	
Telephone Installation	$ 24,000	
Moving out and back into Supreme Court building	$ 100,000	
Climate control storage	$ 200,000	
Lodging for judges	$ 100,000	
Construction of 8,200 new square feet and major renovation of 5,000 existing square feet of the Supreme Court building	$4,500,000	
Reconfiguration of two court rooms	$ 120,000	
Reconfiguration of two court room audio systems	$ 16,000	
Relocation Cost	$6,184,344	$1,135,770

Combined Total Cost $7,320,114*

*Note: Included in the estimate above is the construction of 8,200 square feet and significant remodeling of 5,000 square feet of the current Supreme Court building. The estimated cost for this remodel project is $4,500,000.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated

appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated no apparent fiscal impact on their city.

Officials from the **City of Jefferson** indicated they do not expect a fiscal impact should this initiative petition become law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Kirkwood** indicated this has no direct economic impact.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated no fiscal impact for their city.

Officials from **Hannibal 60 School District** indicated there is not a fiscal impact to their schools resulting from this initiative petition.

Officials from the **University of Missouri** indicated this initiative petition has no fiscal impact on their university.

Officials from the **St. Louis County Election Board** indicated fiscal impact of election costs could vary should the Constitution be amended so Supreme Court Judges are elected rather than appointed. Even and odd-numbered election years drive whether St. Louis County or the state of Missouri is held responsible for proportionate election costs; St. Louis County in even-numbered years and the state of Missouri in odd-numbered years.

The approximate cost of St. Louis County-Wide elections held in even-numbered years is $860,000 per election unless other entities have issues on the ballot as well. In this case,

proportionate costs are shared among the total number of entities involved. An entity's proportionate share is dependent upon their registered voter count.

As stated above but for odd-numbered years, the state of Missouri incurs the approximate cost of $860,000 per election unless other entities have issues on the ballot as well. Proportionate costs are also shared among the total number of entities involved and dependent upon an entity's registered voter count. In addition to election costs, the state incurs costs for publishing the notice of election and notice of polling places.

Officials from the **St. Louis City Election Board** indicated it appears that this initiative petition would not have any significant cost or savings impact on the Board of Elections.

Officials from the **Kansas City Election Board** indicated the cost of conducting a general election in an even numbered year will not change if this legislation is enacted. Both Jackson County and the City of Kansas City would equally share the cost of these elections.

The state of Missouri would have no financial liability. RSMo 115.063 (3).

Officials from the **Platte County Board of Elections** indicated there would be no direct costs to their board to implement the proposed changes. However, there would be costs directly to the county to conduct Primary and General elections. Costs per election would range from $50,000 to $60,000, depending upon the number of other public districts/entities involved in the election, as costs would be pro-rated based upon the number of registered voters within each district.

Officials from the **Jackson County Election Board** indicated printing cost for ballot pages ranging from $0-$1,000 are the only associated cost.

Officials from the **Clay County Election Board** indicated this initiative petition will have no impact on Clay County elections if they are held on the General election day.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Conservation**, the **Department of Public Safety,** the **Missouri Senate**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau, t**he **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

State court officials estimate increased annual operating costs starting at $1.1 million and initial equipment costs and one time building construction and renovation costs of up to $6.2 million to establish work space for the additional judges and staff. Local governmental entities should experience limited or no increased election related costs.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-048)

Subject

Initiative petition from John Elliott regarding a proposed constitutional amendment to Article V. (Received August 26, 2013)

Date

September 13, 2013

Description

This proposal would amend Article V of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Election Board.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Social Services** indicated this petition will not have any fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition, 14-048, would increase the number of Missouri Supreme Court judges from seven to nine. There will be direct election of all judges, in partisan political contests. The proposal will elect three of the high court judges from each of the appeals court's three districts – Western Missouri, Eastern Missouri, and Southern Missouri.

The cost of this initiative would be $7,320,114. This includes the construction of an addition of 13,200 square feet to the Supreme Court Building. The cost would be approximately $4,500,000. The addition to the current building must include the historical nature of the building and matching the existing décor.

Additional official station travel costs would be incurred if judges were required to come from different appellate districts. Estimated increase to in-state travel expense would be $20,000.

One Time Expense			Re-occurring Expense
Statutory Judge's salary	(2)		$295,182
Judge's benefits			$224,921
Judge's office staff budget	(2)		$301,868
Staff benefits			$159,235
Court Marshals	(2)		$ 74,688
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Official Station costs	(2)		$ 10,000
Other travel	(2)		$ 20,000
Cell phones	(2)		$ 2,400
Annual Phone Charges			$ 4,032
Installation of new office Telephones	(16)	$ 6,400	
Laptop Computers	(8)	$ 8,968	$ 2,242
Computer Monitors	(16)	$ 2,416	$ 604
Copy machines	(2)	$ 6,000	
Printers	(6)	$ 4,800	$ 1,200
Office Furniture	(8)	$ 16,000	
Court vehicle	(1)	$ 24,000	

Relocation Cost (2 years)	$ 923,000	
Utilities for two years	$ 110,760	
Networking cost for two Years including installation	$ 22,000	
Telephone Installation	$ 24,000	
Moving out and back into Supreme Court building	$ 100,000	
Climate control storage	$ 200,000	
Lodging for judges	$ 100,000	
Construction of 8,200 new square feet and major renovation of 5,000 existing square feet of the Supreme Court building	$4,500,000	
Reconfiguration of two court rooms	$ 120,000	
Reconfiguration of two court room audio systems	$ 16,000	
Relocation Cost	$6,184,344	$1,135,770
Combined Total Cost		$7,320,114*

*Note: Included in the estimate above is the construction of 8,200 square feet and significant remodeling of 5,000 square feet of the current Supreme Court building. The estimated cost for this remodel project is $4,500,000.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated

appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated no apparent fiscal impact on their city.

Officials from the **City of Jefferson** indicated they do not expect a fiscal impact should this initiative petition become law.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Kirkwood** indicated this has no direct economic impact.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated there doesn't appear to be any cost to their city from this petition's issue.

Officials from **Hannibal 60 School District** indicated there is not a fiscal impact to their schools resulting from this initiative petition.

Officials from the **University of Missouri** indicated this initiative petition has no fiscal impact on their university.

Officials from the **St. Louis County Election Board** indicated fiscal impact of election costs could vary should the Constitution be amended so Supreme Court Judges are elected rather than appointed. Even and odd-numbered election years drive whether St. Louis County or the state of Missouri is held responsible for proportionate election costs; St. Louis County in even-numbered years and the state of Missouri in odd-numbered years.

The approximate cost of St. Louis County-Wide elections held in even-numbered years is $860,000 per election unless other entities have issues on the ballot as well. In this case,

proportionate costs are shared among the total number of entities involved. An entity's proportionate share is dependent upon their registered voter count.

As stated above but for odd-numbered years, the state of Missouri incurs the approximate cost of $860,000 per election unless other entities have issues on the ballot as well. Proportionate costs are also shared among the total number of entities involved and dependent upon an entity's registered voter count. In addition to election costs, the state incurs costs for publishing the notice of election and notice of polling places.

Officials from the **St. Louis City Election Board** indicated it appears that this initiative petition would not have any significant cost or savings impact on the Board of Elections.

Officials from the **Kansas City Election Board** indicated the cost of conducting a general election in an even numbered year will not change if this legislation is enacted. Both Jackson County and the City of Kansas City would equally share the cost of these elections.

The state of Missouri would have no financial liability. RSMo 115.063 (3).

Officials from the **Platte County Board of Elections** indicated there would be no direct costs to their board to implement the proposed changes. However, there would be costs directly to the county to conduct Primary and General elections. Costs per election would range from $50,000 to $60,000, depending upon the number of other public districts/entities involved in the election, as costs would be pro-rated based upon the number of registered voters within each district.

Officials from the **Jackson County Election Board** indicated printing cost for ballot pages ranging from $0-$1,000 are the only associated cost.

Officials from the **Clay County Election Board** indicated this initiative petition will have no impact on Clay County elections if they are held on the General election day.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Corrections**, the **Department of Public Safety**, the **Missouri Senate**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau, t**he **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

State court officials estimate increased annual operating costs starting at $1.1 million and initial equipment costs and one time building construction and renovation costs of up to $6.2 million to establish work space for the additional judges and staff. Local governmental entities should experience limited or no increased election related costs.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-051)

Subject

Initiative petition from Bradley Ketcher regarding a proposed amendment to Chapters 172, 174, 175, and 178 of the Revised Statutes of Missouri. (Received September 26, 2013)

Date

October 15, 2013

Description

This proposal would amend Chapters 172, 174, 175, and 178 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri**

Western State University, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the amendment.

Officials from the **Department of Higher Education** indicated they have determined that there are no cost or savings to their department if this measure were to become law.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department Corrections** indicated no impact for their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they assume that this proposal will have no fiscal impact on their department.

Officials from the **Department of Social Services** indicated this proposal has no fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated no apparent effect on their city.

Officials from the **City of Jefferson** indicated they would not expect to have any cost or savings associated with this petition.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated this proposal would have no fiscal impact on their city.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on the university.

Officials from the **University of Central Missouri** indicated there will no revenues, savings, costs or losses to their university.

Officials from the **Missouri State University** indicated there will no fiscal impact for their university.

Officials from the **Truman State University** indicated no impact.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education**, the **Department of Labor and Industrial Relations**, the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, St. Louis Community College, Harris-Stowe State University, Lincoln University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University,** and the **Southeast Missouri State University.**

Fiscal Note Summary

State and local governmental entities expect no costs or savings to result from this proposal.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-052)

Subject

Initiative petition from Rodney Gray regarding a proposed constitutional amendment to Article IV. (Received October 10, 2013)

Date

October 30, 2013

Description

This proposal would amend Article IV of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **State Tax Commission.**

Rudy Farber and **Bill McKenna** representing **Missourians for Safe Transportation & New Jobs** provided information as proponents of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact from the proposed amendment.

Officials from the **Department of Higher Education** indicated they have determined the estimated cost or savings are zero to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have a fiscal impact on their department.

The estimated net effect on state funds to be $321,729,178 in fiscal year 2015 and $643,761,122 for fiscal year 2016 and the estimated net effect on local funds to be $35,717,731 in fiscal year 2015 and $71,435,462 for fiscal year 2016.

The legislation levies a one percent sales tax on all transactions where the state imposes sales tax. In addition to the sales tax, the legislation imposes a one percent use tax for transactions where the state of Missouri imposes use tax. This increase does not apply to the retail sale of food as defined by the Missouri Sales Tax Law.

The IT portion of the fiscal impact is estimated with a level of effort valued at $71,304.

The value of the level of effort is calculated on 2,636 FTE hours.

This will increase revenue to the state transportation funds by an estimated $715 million. All distributions will show half the revenue for FY15 due to the effective date of January 1, 2015.

This petition, if passed by voters, would create a substantial increase in funding for transportation funds identified within the petition.

Section 30(e): Increases the state sales and use tax rate by one percent. This increase does not apply to the retail sale of food as defined by the Missouri Sales Tax Law.

General Sales and Use Tax:
In FY 13, the department collected $1.895 billion in general sales and use tax. Increasing the general sales and use tax by a rate of one percent would result in $631 million annually in additional revenue to be distributed as follows:

County Aid Transportation Fund	5%	$31,550,000
Municipal Aid Transportation Fund	5%	$31,550,000
Transportation Safety and Job Creation Fund	90%	$567,900,000

Motor Vehicle State Sales Tax
In FY 13, the department collected $348,929,691 in state motor vehicle sales and use tax. Adding an additional one percent tax on motor vehicles would result in an estimated $81.76 million annually in additional revenue to be distributed as follows:

Highway Fund Distribution		$ 825,869
County Aid Transportation Fund	5%	$ 4,088,052
Municipal Aid Transportation Fund	5%	$ 4,088,052
Transportation Safety and Job Creation Fund	90%	$73,584,936

Note: The distribution of funds shown under the Highway Fund will be requested through the appropriation process for the cost of collections.

Marine State Sales Tax
In FY 13, the department collected $6,800,873 in marine sales tax. Adding an additional one percent tax on marine sales would result in an estimated $1.593 million annually in additional revenue to be distributed as follows:

General Revenue Fund Distribution		$16,097
County Aid Transportation Fund	5%	$79,679
Municipal Aid Transportation Fund	5%	$79,679
Transportation Safety and Job Creation Fund	90%	$1,434,220

Note: The distribution of funds shown under the General Revenue fund will be requested through the appropriation process for the cost of collections.

Excise Tax / Business Tax Processing:
DOR assumes that the money that goes to cities and counties will be distributed in the same manner and at the same time as the CART fund distribution is made. The Excise Tax section currently performs the distribution process.

This will require a new distribution computer program and distribution forms.

Costs associated with notifying approximately 150,000 sales/use tax filers of the rate change:

Letters:	$ 0.025	x	150,000 =	$ 3,750
Envelopes:	$ 0.04	x	150,000 =	$ 6,000
Postage:	$ 0.46	x	150,000 =	$ 69,000
TOTAL				$ 78,750

Cashiering:
The department requires changes to MITS system batch cashiering report, Cashiering Transmittals system and Sales worksheet will be required to add and distribute the new fund codes. This will cause an additional impact to the SAM II financial system to add the new funds codes. The collection fee will have to be manually adjusted if the actual collection cost is less than one percent. (860 hours + 336 hours for the Sales Tax Worksheet = 1,196 hours)

Motor Vehicle Bureau:
Procedures will need to be revised by a Management Analyst Specialist I requiring 40 hours of overtime at a cost of $804 in FY 15.

TRIPS (400 hrs), the Delinquent Fees System (400 hrs), the online Sales Tax Calculator (80 hrs), MTAS (400 hrs), MV Bad Check (80 hrs), and MV Refund Tracking (80 hrs) will need to be revised to collect the additional one percent state sales tax (1,440 hrs total).

Two overtime hours for each system change will be required for a total of 10 overtime hours by a Management Analyst Specialist I at a cost of $201 each in FY 15.

The departments web site will need to be revised requiring 10 hours of overtime for an Administrative Analyst I, at a cost of $325 in FY 15.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department because the department is exempt from paying sales tax on its purchases. Also, the tax is a dedicated tax for transportation services; no new general revenue funding would be available for other governmental purposes.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated:

MoDOT estimates revenues for the first year (January 1, 2015-December 31, 2015) of $718 million based on FY 2013 General Revenue Sales and Use Tax revenue. The General Revenue Sales and Use Tax revenue is consistent with exemptions as of July 1, 2013 (does not include tax on food, prescription drugs, motor fuel and motor vehicle sales).

The officials indicated they did not include growth in their estimate. To include growth, they would recommend a growth rate of 1.2 percent based upon actual activity from FY 2004-2013 for General Revenue Sales and Use Tax revenue.

Assumptions (in millions)

FY 2013 General Revenue from 3% Sales and Use Tax	$1,868
New Revenue (based on FY 2013 revenues):	
1% General Sales and Use Tax	$623
1% Motor Vehicle Sales Tax	$95
Annual Revenue prior to Growth Rate	$718
Annual Growth Rate Assumption	0%
DOR Cost of Collection (percent of new revenue)	1%
Transportation Safety and Job Creation Fund Share	90%
Municipal Aid Transportation Fund Share	5%
County Aid Transportation Fund Share	5%

Provided by OA; does not include tax on food, prescription drugs, motor fuel or motor vehicle sales and use tax

DOR's portion of new revenue is limited to the actual costs to collect the new revenue, not to exceed one percent of the total amount collected. The actual costs to collect are unknown; therefore, any actual costs to collect less than $7 million (or one percent) will be distributed to MoDOT, cities and counties.

Fiscal Impact (in millions)

	Revenue in First Year (1/1/15-12/31/15)
MoDOT	$639
Cities	$36
Counties	$36
DOR	$7
Total	$718

Officials from the **Office of Administration** indicated:

This proposal creates, upon voter approval, an additional 1% sales tax, to be dedicated to highway purposes. This tax shall not apply to food as it defined under the Sales Tax Law.[1]

Gross GR sales and use tax collections totaled $1,897.1M in FY 13, at the 3% rate. Therefore, an additional 1% would generate $632.4M annually.

The GR sales tax does not apply to motor vehicles, but the proposed 1% increase would apply to motor vehicles. Based on information in DOR's FY 12 Financial Report, at the rate of 3%, $218.2M was collected in motor vehicle sales taxes. This implies an additional 1% would generate $72.7M. Similarly, at a rate of 4% for highway use taxes, $70.9M was collected. This implies additional revenues of $17.7M annually.

Therefore, B&P estimates this proposal will generate $722.8M in its first full year. Revenues generated in future years could differ due to fluctuations in consumer prices and spending, or administrative issues.

The proposed sales tax would go into effect Jan. 1, 2015, but it would likely be Feb. 1 before the first revenues are received. Therefore, roughly 5/12 of the annual amount is expected in FY 15.

Up to 1% of these proceeds may be used to offset DOR's costs of collection.

There should be no cost to the Office of Administration.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal

[1] B&P notes that "food" is defined in RSMo. Section 144.014.2 as:

For the purposes of this section, the term "food" shall include only those products and types of food for which food stamps may be redeemed pursuant to the provisions of the Federal Food Stamp Program as contained in 7 U.S.C. Section 2012, as that section now reads or as it may be amended hereafter, and shall include food dispensed by or through vending machines. For the purpose of this section, except for vending machine sales, the term "food" shall not include food or drink sold by any establishment where the gross receipts derived from the sale of food prepared by such establishment for immediate consumption on or off the premises of the establishment constitutes more than eighty percent of the total gross receipts of that establishment, regardless of whether such prepared food is consumed on the premises of that establishment, including, but not limited to, sales of food by any restaurant, fast food restaurant, delicatessen, eating house, or cafe.

activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **Greene County** indicated if passed, this would result in approximately $950,000 in additional annual revenue to the Road and Bridge fund of Greene County.

Officials from the **City of Columbia** indicated:

They estimate a possible $7.3 million in new collections for the City of Columbia over the first ten years of the sales tax. It is not possible to estimate net revenues that could be affected by other factors. Please see comments below.

Sec. 30(d).1. – No "administrative" uses for money deposited in state road fund or transportation safety and job creation fund. This could create problems completing state projects in this community if there are not enough funds for inspectors, project administrators, cost of federal compliance and other things needed to complete projects. This could create backlogs and opportunity costs.

Sec. 30(e).1. – On its face, the initiative appears to exempt food but not medicine from tax. If medicine is not exempt, that would affect citizens with prescription needs. Also, imposing any additional state sales tax could reduce the local appetite for sales taxes that support local services. The officials indicated they can't estimate specific effects of more transportation-related jobs and spending vs. citizen strategies to avoid local sales tax.

Sec. 30(e).3.(2) – The officials indicated they estimate a possible $7,167,600 for Columbia over ten years, or $716,760/yr in new funds, assuming actual collections don't diverge widely from estimated total collections of $7.92 billion. They said they used a formula provided by transactionkc to reach this number.

For Kansas City:
$7.92b x .05 x (2010 population KCMO / Missouri: 460k / 5.989m = 0.0768) = $30.4m or about $3 million per year

For Columbia:
$7.92b x .05 x (2010 population Columbia / Missouri: 108,500 / 5.989m = 0.0181) = $7,167,600 or about $716,760 per year

http://transactionkc.com/2013/04/08/proposed-missouri-sales-tax-for-transportation-passes-senate/

Sec. 30(e).3.(3) – 90% for statewide priorities. The officials indicated they can't predict how or when any additional revenue will be used, but there is potential for economic trickle-down even if project funds don't hit the city's treasury. If they do hit, the city will see revenue enhanced.

Sec. 30(e).3(5) and (6) – interest accrues to county and city funds. If the interest is not figured into the $7.92 billion, it could be an enhancement. The officials indicated they assume these revenues are not subject to Hancock refunds.

Sec. 30(e).4(3) – similar effects to not being able to use revenue for administrative costs. Lawsuits could delay project progress, creating opportunity costs. If taxpayers try to bring cities or counties into the litigation, that will create costs for local taxpayers.

Officials from the **City of Kirkwood** indicated the city can only assume that funds will flow from the provision that sets aside 5% of the funding for municipalities. At this point, information is insufficient to determine the value. The downside is that increasing the general sales tax charged customers will make it more difficult for municipalities, including Kirkwood, to successfully seek voter approval for local sales tax. Philosophically, regardless of revenue that may inure to Kirkwood, sales tax is an inappropriate revenue source for highway construction.

Officials from the **City of St. Joseph** indicated the provisions of this bill would seem to have a positive impact on the City of St. Joseph's revenues related to maintenance & repair of our city streets and related activities. They are unable to quantify the amount at this time not knowing (a) how much this one cent sales tax is estimated to be generated annually; (b) how much of the 5% of the total going to municipalities would be going to St. Joseph; and, (c) what, if any, dampening effect the added sales tax would have on local citizens' purchasing habits.

Officials from the **Cape Girardeau 63 School District** indicated they are unaware of any cost or savings due to this petition.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

Officials from the **State Tax Commission** indicated this initiative petition would not result in any cost or savings to their office.

Rudy Farber and **Bill McKenna** representing **Missourians for Safe Transportation & New Jobs** provided the following information as proponents of this initiative petition.

Fiscal Impact Comments
Transportation Sales Tax
Initiative Petition 2014-052
Charles A. Pierce, CPA
Proponent
10/17/2013

PURPOSE

This report was prepared at the request of Missourians for Safe Transportation & New Jobs, Inc. The purpose of the report is to discuss the potential fiscal impact of a new temporary sales tax for transportation purposes. Specifically the proposal evaluated was Initiative Petition number 2014-052. This proposal is similar to Initiative Petition 2014-050. These comments were developed for submission to the State Auditor as public comments as a proponent of Initiative Petition 2014-052.

SUMMARY OF FISCAL IMPACT

If passed Initiative Petition 2014-052 would have the following fiscal impacts:

- Create new revenues for transportation of $723 million per year to be allocated:
  - $ 651 Million to the state
  - $ 36 Million to Counties
  - $ 36 Million to Cities
- Require all new revenue to be spent only on transportation projects
- Prohibit any increase in motor fuel taxes or tolls while the transportation sales tax is in place.

EXPLANATION OF FISCAL IMPACTS

Creates $ 723 Million per Year in New Revenue

Initiative petition 2014-052 establishes a temporary 1 % sales tax on all transactions currently subject to state sales taxes. For this reason the calculation of the new revenue is relatively straightforward.

Using current collection reports from the Office of Administration and the Department of Revenue, the calculation is as follows (amounts in Millions rounded):

	General Sales	Motor Vehicle Sales	Motor Vehicle Use
Current Collections	$1,897	$218	$71
Current State Rate	3%	3%	4%
Implied Sales (Collections/Rate)	$63,233	$7,267	$1,775
Revenue under New Measure (Implied Sales times 1%)	$632	$73	$18
Total New Revenue	$723		

(Sources: Office of Administration Financial Summary June 2013 & Department of Revenue Taxes Administered Fiscal Year 2012)

The initiative has a simple formula for sharing the new revenue between state and local governments. Of the total collected, 90% is allocated to the state, 5% to county governments and 5% to cities. Applying these percentages to the total new revenue results in the following allocation:

State Revenue	(723x.90)	$651 Million
County Revenue	(723x.05)	$ 36 Million
City Revenue	(723x.05)	$ 36 Million

This estimate of new revenue is done utilizing fiscal year 2013 gross collections for the state general sales tax and fiscal year 2012 collections for the motor vehicle sales taxes. These amounts were used because they are the most current published amounts for these taxes. The new tax, if approved, would be collected beginning in January 2015. This estimate would be appropriate assuming similar sales patterns and consumer behaviors for the first full fiscal year of the new measure. The tax is valid for a 10 year period and sunsets unless it is extended by the voters.

The use of the current sales tax base to estimate the amount produced by the new tax is both the most conservative and most accurate means of calculating the fiscal impact. Three factors that could result in differences between this estimate and actual collections are inflationary growth, changes in consumer behavior, and

changes to the sales tax base. All three of these are very difficult to estimate with any degree of accuracy.

As a general matter, sales tax collections will increase by the amount that inflation increases the price of taxed goods. The rate of inflation in recent years has been virtually flat. Forecasts for inflation over the near term are for this trend to continue. No one can say with certainty what will occur over the next 10 years. Therefore, applying some assumed inflationary growth to the estimate creates an additional level of complexity to the estimate, without improving the accuracy. Since no one can know what the rate of inflationary growth will be and most reasonable people would agree it will increase by some amount, the most reasonable approach is to assume future sales will at least equal current sales.

Changes in consumer behavior could also affect the amount of revenue collected under the new tax. Again this is difficult if not impossible to predict with any accuracy. Like inflation, economic growth has been relatively flat in recent years. Projections are for growth to increase as the economy works out of the recent recession, but the rate, and timing of the recovery is the subject of many different estimates. Therefore, applying some type of general growth rate to the existing sales base would be difficult to do with any reasonable degree of accuracy. Again, it is reasonable to conclude that as the economy improves, the sales in future years will at least equal current period.

The third component that impacts the estimate of the fiscal impact is the potential for changes to the sales tax base. This can occur by either the courts or the legislature changing what is taxed. For example, if the legislature passes a new sales tax exemption, it would likely be exempt from this tax as well. Court cases can expand or eliminate exemptions thereby changing the tax base. If Congress were to enact a change to address taxation of internet sales, the sales tax base could be changed. Forecasting the fiscal impact of these types of changes requires a prediction of future actions by the legislature or the courts. Since it is impossible to predict either of those with any degree of accuracy, it is best to not include any assumptions on future changes to the sales tax base in the calculating the fiscal impact.

In summary, the most reasonable method of estimating the amount of new revenue generated is to take the existing sales tax base times the rate created by the initiative. Performing the calculation this way removes speculation as to how the economy will behave in future periods. This revenue estimate basically tells voters and government officials how much revenue would be generated if the tax were in place today. That is the most relevant question. Additionally this method is consistent with the method used for legislative fiscal notes.

Requires all Revenue to be Spent for Transportation Purposes

The initiative clearly requires that all revenue generated by the new tax be used only for transportation purposes. It further explicitly states that the revenue cannot be diverted for other purposes. These requirements create a fiscal impact from both a budgetary and accounting perspective.

The creation of $723 million in additional state revenues is significant to the preparation of the state's budget in future years. By specifying what the money can be spent on the initiative narrows the discretionary impact on the budget. It is extremely relevant to both budget planners and voters that this revenue is not available to fund the general operations of state and local government.

If this restriction were not included the fiscal impact to the state would be significantly different. If the estimated $723 million were included in the state's General Revenue budget, the legislature would have discretion to use it to fund new or existing programs other than transportation. Conversely, adding this amount of funding to resources available to finance transportation projects will undoubtedly result in more transportation projects being funded. By specifically restricting the use of the additional revenues budgetary discretion is significantly reduced.

The restriction of the future revenues has a fiscal impact on the state's accounting system as well. The Governmental Accounting Standards Board (GASB) establishes the accounting principles that the state must follow in the preparation of its annual financial statements. Failure to follow these standards will result in adverse comments by both the State Auditor and bond rating agencies.

The GASB has specifically addressed the significant impact that legal restrictions have on financial reporting for government. Section 1200.106 of the *Codification of Governmental Accounting and Financial Reporting Standard*, in fact addresses a specific example such as this measure. It states in relevant part:

> "For example, if a state constitution requires that proceeds of a state gasoline tax be accounted for in a state highway construction fund and be used exclusively for capital outlays on highways and public roads, the accounting system must enable the governmental unit to demonstrate compliance with the constitutional mandate."

The State has demonstrated the importance of this requirement by GASB by the way it accounts for existing transportation related revenues and expenditures. The State of Missouri's Comprehensive Annual Financial Report (CAFR) for fiscal year 2012 has the following footnote disclosure on page 37:

> "Missouri Road Fund – accounts for revenues from highway users' fees, federal reimbursements for highway projects, and bond proceeds to be used for costs of constructing and maintaining an adequate state highway system. Major revenues are from contributions."

It is significant that this note indicates a specific description of the restrictions. Although the restrictions are contained in the State Constitution they are summarized in the note to the financial statement. This is done so that a reader of the financial statements can fully understand the nature and type of restriction without reviewing additional documents. The financial statement information is designed to be informative disclosure on a stand-alone basis. The fiscal note summary should follow a similar level of disclosure.

Because the state is already accounting for constitutional restrictions on similar funds, there should be no challenge to establishing this accountability for the new measure. The fact that this is required by generally accepted governmental accounting standards demonstrates that it is a significant component of the fiscal impact from an accounting standpoint.

Voters' decisions are impacted by knowing that new revenue can only be used for specific purposes. Voters who favor a general increase in state revenues may be inclined to oppose a tax that is limited to one area. Other voters may be more inclined to vote for a tax that can only be spent for a specific purpose.

This information is relevant to the fiscal impact and to the voters' decision. Therefore, it is important to include it in the fiscal note summary. The State Auditor's Office has historically agreed that placing a restriction on a revenues purpose is important and relevant to the fiscal note summary. The following are examples where the auditor has included this type of information in the fiscal note (**numbers** are Secretary of State Initiative Petition numbers)

- **2012-131** Statutory Amendment to RSMO Chapters 149 and 196 Relating to Cigarette and Other Tobacco Product Taxation, Version D
- **2008-035** Amendment to Various Chapters of the Revised Statutes of Missouri Relating to Casinos and Gambling
- **2006-01** Technology Parks
- **2006-05** Tobacco Tax
- **2004-010** Highway and Transportation Petition

A review of these fiscal notes demonstrates that for the past 10 years it has been an accepted practice of both the current and previous State Auditors to indicate funding restrictions as a component of the fiscal impact.

Prohibits any Increase in Motor Fuel Taxes or Tolls While the Transportation Sales Tax is in Place

The adoption of this initiative will result in increased revenues for state and local governments, but it also prohibits other increases. In the newly established Section 30(e) 4.(1) & (2) the initiative clearly states that motor fuel taxes or tolls can not be increased (or decreased) without a vote of the people. The addition of this section places a constitutional restriction on state and local governments.

Currently, the ability of the state to adjust these revenues is restricted by Article X, Section 18(e) of the Missouri Constitution. This section limits annual increases to all revenues to a total amount tied to a specific calculation. The calculation of this limit is a part of the budget process each year. The Office of Administration calculated the limit at the end of fiscal year 2013 to be $84.2 million (Fiscal Year 2014 Executive Budget Summary page 8). This represents the current limit on the Legislature to raise fees or taxes without a public vote. If Initiative 2014-050 is adopted the state will not be able to adjust motor fuel taxes or tolls, even within the parameters of these broad limits.

The restriction of state and local government's ability to generate additional revenue represents a potential cost to the state. However, since it is impossible to determine what this limit may be in a future year, or whether the legislature would consider such an increase, the amount of the potential cost is not determinable.

CONCLUSION OF FISCAL IMPACT

Passage of Initiative 2014-052 will have a direct fiscal impact on state and local governments. This impact can best be calculated by applying the new rate to the current sales tax base. This method of calculating the impact results in an estimated fiscal impact of $723 million in additional revenue in the first full year of adoption. The measure also places direct and irrefutable limits on how the new money can be spent, and further restricts state and local governments from increasing other revenues.

This full fiscal impact can be adequately summarized within the limits of the ballot fiscal note by adopting the following statement:

> **Estimated additional revenue is $651 million to the state and $72 million to local government annually. Increases in gas taxes or tolls are prohibited. This revenue can only be used for transportation purposes and cannot be diverted for other uses.**

For a similar measure, Initiative 2014-050, the State Auditor issued the following fiscal note summary:

> *Annual increased revenue is estimated to start at $651 million for the state and $72 million for local governments. Expenditure of this revenue is restricted to purposes outlined in the proposal*

This summary, while accurate, is not as descriptive as it might be. A reader of this summary would be informed that the revenue is restricted, but would be forced to read the proposal to understand, even generally, what the restriction is. This level of disclosure is more general than would be required for the State's financial statements if the measure were to be adopted. It would seem reasonable that the measure's fiscal note summary should be as informative to the reader as a financial statement footnote. This disclosure could be made more informative, with the following change:

> Annual increased revenue is estimated to start at $651 million for the state and $72 million for local governments. Expenditure of this revenue is restricted to ***transportation*** purposes ***as*** outlined in the proposal

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education**, the **Department of Natural Resources,** the **Department of Public Safety**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and the **St. Louis Community College.**

Fiscal Note Summary

Annual increased revenue is estimated to start at $651 million for the state and $72 million for local governments. Expenditure of this revenue is restricted to the purposes outlined in the proposal.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-054)

Subject

Initiative petition from Brad Ketcher regarding a proposed constitutional amendment to Article III. (Received October 28, 2013)

Date

November 18, 2013

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

Marc Ellinger provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Higher Education** indicated they have determined the estimated cost or savings are zero to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Revenue** indicated this legislation will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they assume that this proposal will have no fiscal impact on their department.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal has no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

This specific petition prohibits the counting of an otherwise genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter. These signatures are still subject to the other requirements set forth in Chapter 116 that require a certain form of the petition itself and that set forth submission procedures for the petition (i.e. pages are submitted all at one time, in order, and numbered sequentially by county and every page has the full text of

the proposed measure attached). The signature pages of the petition also are required to be submitted in the approved form of the sample petition. Additionally, it is assumed that the "genuine signature" language used in the petition will prohibit the counting of signatures that the registered voter does not personally sign, including certain electronic signatures. This assumption is consistent with the requirements of Section 116.130, RSMo, in checking signatures against voter registration records and continuing the current process of signature verification.

Due to these other restrictions and the above assumptions, there should be no significant costs or savings other than the stated publication costs.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated this has no fiscal impact to their office.

Officials from **Cole County** indicated they anticipate a drop in sales tax revenues due to Section 16(a), which severely limits, and drastically reduces from current levels, lobbyist expenditures to Missouri legislators. Attached is printout from a website containing a November 1, 2013 report compiled by St. Louis Public Radio and National Public Radio that lists lobbyist expenditures in Missouri. For the previous 24-month period, Missouri lobbyists spent $1,865,960.00. Because the State Capitol is in Cole County, it would be reasonable to assume that a substantial portion of this amount was spent on goods and services in Cole County. Eliminating these expenditures would result in a loss of sales tax dollars to the county. Also lost would likely be the jobs of employees in those industries providing goods and services for lobbyist activities and expenditures or possibly the closing of those businesses altogether, which both would reduce even more sales tax revenues in the county.

Lobbying Missouri

A reporting partnership with npr

by DANNY DEBELIUS, CHRIS GROSKOPF, CHRISTOPHER McDANIEL and MATT STILES

November 1, 2013

Companies and other organizations with an interest in Missouri state government hire lobbyists to influence policy in Jefferson City. State law requires lobbyists to disclose how much they spend in the process, listing which officials received benefits, such as free meals, professional sports tickets, trips and other gifts. Try searching for your legislators below, then read our stories on the issue. You can also learn more about how we built this site or download all the data.

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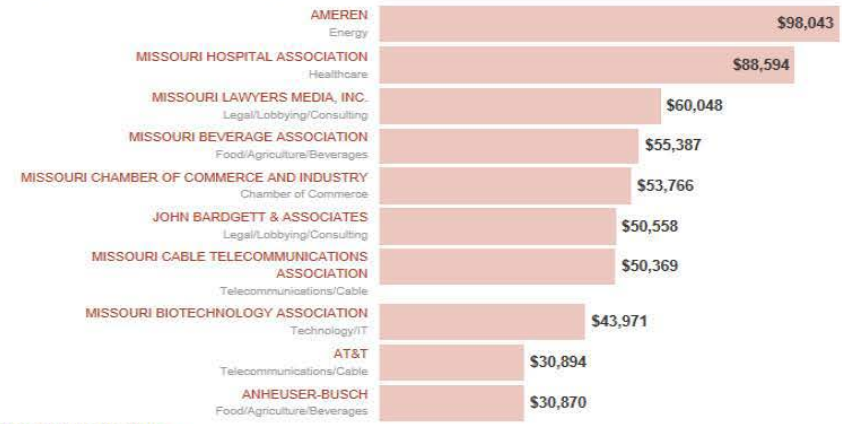
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SPENT	GIFTS GIVEN	ORGANIZATIONS LOBBYING	LOBBYISTS ACTIVE
$1,865,960	20,681	549	409

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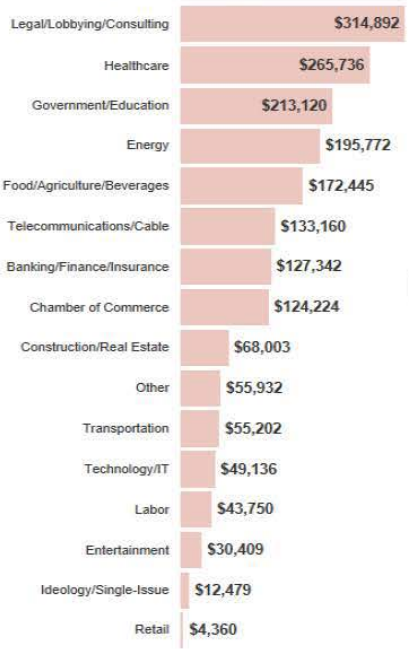
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Spending by industry



* The state releases data two months after lobbyists submit it, and our numbers reflect the last 24 months on record.

Officials from **Greene County** indicated they do not anticipate a fiscal impact upon their county.

Officials from the **City of Columbia** indicated this is not expected to have any fiscal impact on their city.

Officials from the **City of Jefferson** indicated that this petition would have no fiscal impact on their city.

Officials from the **City of Joplin** indicated this petition would have no fiscal impact to their city.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Kirkwood** indicated there would be no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this would have no fiscal impact on their city.

Officials from **Cape Girardeau 63 School District** indicated they do not believe there is any cost or savings that affects their school district due to this issue.

Officials from the **Missouri Ethics Commission** indicated the costs related to the proposed legislation are not inclusive in our current budget.

The total estimated costs on all state funds is $67,392 for FY 2014, $61,004 for FY 2015, and $61,629 for FY 2016.

The proposed language is a Constitutional amendment and does not explicitly provide enforcement powers to the Missouri Ethics Commission. Any enforcement would be provided through existing statutory authority to receive complaints or to conduct audits. Any additional enforcement powers would require enabling language to be passed in Chapter 105 and/or Chapter 130 to provide the necessary specific authority for enforcement. Below is the affect the proposed language would have on our agency.

Prohibiting a member of the general assembly and their employees/staff from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new

statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly and their employees/staff from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130 or for any campaign issue

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or their employees or staff to accept lobbyist/lobbyist principal gifts in excess of $5.00 would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

The proposed language is a Constitutional amendment and does not explicitly provide enforcement powers to the Missouri Ethics Commission. Any enforcement would be provided through existing statutory authority to receive complaints or to conduct audits. Any additional enforcement powers would require enabling language to be passed in Chapter 105 and/or Chapter 130 to provide the necessary specific authority for enforcement. Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo. about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

The proposed language is a Constitutional amendment and does not explicitly provide enforcement powers to the Missouri Ethics Commission. Any enforcement would be provided through existing statutory authority to receive complaints or to conduct audits. Any additional enforcement powers would require enabling language to be passed in Chapter 105 and/or Chapter 130 to provide the necessary specific authority for enforcement. Below is the fiscal impact on our agency in conjunction with the proposed language.

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed language includes a prohibition of a member of the general assembly and their employees/staff from becoming a lobbyist for a specified period of time, accepting or receiving compensation of any as a paid political consultant and a prohibition accepting a lobbyist gift in excess of $5.00.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The proposed legislation also includes the implementation of campaign finance contribution limits for state senate or state representative candidates. The implementation of the responsibilities associated to the implementation of contribution limits would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

- 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.
- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill may require additional associated costs for FTE, equipment, and expenses.

Marc Ellinger provided the following information as an opponent of this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Brad Ketcher on October 28, 2013.

In 2012, the State Auditor's Office issued a Fiscal Note (11-35) for an initiative that limited campaign contributions. In that fiscal note, both the Department of Revenue and the Missouri Ethics Commission indicated there would be additional costs to their departments. The Auditor's Office issued the following Fiscal Note Summary:

> It is estimated this proposal will increase state government costs by at least $127,000 annually and result in one-time costs of about $28,000. Any potential impact to state government revenue could not be determined. It is estimated this proposal will have no costs or savings to local governments.

This fiscal note summary vastly underestimates the costs to state and local governments as a result of the proposed measure. We urge you to adopt a different fiscal note for this proposed measure on the basis of the data you will find herein. Not only will there be direct costs to state agencies as indicated in Fiscal Note 11-35 but there will be widespread effects on the Missouri economy. Each election cycle, candidates spend millions of dollars in Missouri. Limiting the total amount of contributions will limit the total amount of money candidates will raise, and therefore will decrease the amount of campaign spending in Missouri. Currently candidates spend thousands of dollars on payroll for campaign workers, thousands of dollars in payroll and income taxes paid directly to the State of Missouri, they spend money for lodging and food at local Missouri businesses, their media purchases support Missouri media companies, and they purchase of printing, supplies, utilities, and more in Missouri. Not only do many of these expenditures directly yield state and local tax revenues, but through the multiplier effect, these dollars are spent and re-spent within our state and local economies. Limiting campaign

contributions would significantly reduce campaign spending in Missouri and have a serious negative fiscal impact to both the state and local governments.

Economic Impact of Campaign Spending

To date, there has not been a comprehensive study regarding the fiscal impact of state elections on Missouri state and local governments. However, there is research on the fiscal impact of election spending. One such study sought to determine how campaign spending affects earnings in service sectors.[1] More specifically, the study sought to determine how income growth is affected by the presence of a primary.

The study concluded that the presence of the primary not only increases overall income, but also income in service-related sectors. The authors found a 41% increase in quarterly income growth rate in quarters where there is primary spending.

The authors point out that states with primaries tend to see between $500,000 and $19 million spending during an election cycle, which is enough to "modestly boost local income growth." Primary spending increases total income growth by 0.53 percentage points. The effect is higher in the services sector, where growth is increased by 0.76.

The study also points out that there would be a "multiplier effect" which the authors explain as follows:

> For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdressers more. This money will continue to circulate in the state's economy.

In addition, the study finds that Missouri is one of the five states with the highest amount of money spent on campaign expenditures, compared to the total contributions by state residents.

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[1] See Lessem, Rebbeca & Carly Urban, "*Local Economic Growth from Primary Election Spending,*" Working Paper, Carnegie Mellon University, 2012, attached hereto as Appendix A.

The study shows that there is more than twice as much campaign spending in Missouri as is contributed by state residents. This study finds that primary campaign spending increases income growth in a state. "[W]hen individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur)." (emphasis added).

While the Lessem & Urban study does not directly quantify the amount by which Missouri state election campaign spending stimulates the Missouri economy and the economies of Missouri local governments, it does demonstrate that there is significant fiscal impact of such spending.

There is no authority to suggest that the dollars spent at a local print shop, hotel, or restaurant by a presidential primary campaign operate differently in the Missouri economy than if spent by a campaign for State Senator or State Representative. And while increased election spending has a positive effect on a state's economy, drastically reducing election spending will have a correlated negative effect on the economy. We can examine data from the Missouri Ethics Commission to see the true impact of limiting campaign contributions.

2014-032's Effect on Nixon 2012

In 2012, Jay Nixon ran a successful re-election campaign for Governor. While his campaign spent money in the years leading up to 2012, we have limited our analysis to a single year. First, we will examine contributions. In 2012, alone, Nixon's candidate committee received donations ranging from eleven cents to $500,000.00. More than 40% of the contributions to Nixon's campaign came from out of state.

Nixon 2012	
Contributions from in-state	$4,703,437.39
Contributions from out-of-state	$3,348,067.98
Percentage Total Contributions from Out-of-State	41.58%

Under 2014-032 all candidate committees would be limited to contributions in the amount of 2,600 or less. With the proposed measure (2014-054), contributions to elect an individual to state senator would be limited to 1,000 and contributions to elect an individual to state representative would be limited to five hundred dollars. While the exact contribution limits may differ, the analysis of 2014-032 is persuasive for this proposed measure as well.

In 2012, Nixon's candidate committee received a total of $8,051,505.37 in contributions. If you limit each contributor to a previously suggested maximum ($2,600.00), the amount of contributions is significantly less -- $2,207,976.00. That is a decrease in contributions of more than $5.8 million dollars. Only 27.42% of Nixon's contributions in 2012 would have been lawful under a proposed cap on contributions at $2,600.00.

Nixon 2012	
Total Contributions	$8,051,505.37
Contributions from Candidate Committees	$42,650.00
Contributions in excess of $2,600	$5,800,879.37
Total Lawful Contributions under 2600 Cap IP	$2,207,976.00
Total contributions prohibited under 2600 Cap IP	$5,843,529.37
Percent of lawful contributions of total contributions	27.42%

The next step is to look at where these campaign dollars were being spent. According to the Missouri Ethics Commission, in 2012, Nixon's campaign spent more than $12 million dollars.[2] The expenditures are broken down by categories in the table below.

Nixon 2012		
	Spending (Dollars)	Percentage of Total Spending
Payroll & Field Work	$745,023.80	6.09
Missouri Taxes	$63,404.72	0.52
Federal Taxes	$330,642.56	2.70
Media	$9,181,550.00	75.10
Other Missouri Expenditures	$866,243.68	7.09
Out of State Expenditures	$1,039,072.50	8.50
	$12,225,937.26	100.00

Nixon spent approximately $750,000 on payroll or paying field workers. All of this amount would be subject to Missouri State income tax. The amount of taxes the Nixon campaign paid directly to the State of Missouri is in excess of $60,000. In addition, the Nixon campaign paid more than $300,000 in federal taxes. The cities of Kansas City & St. Louis presumably collected a 1% earnings tax from a portion of that amount. The $750,000 paid to employees would have a significant impact on the economy due to the multiplier effect. Much of that money would be spent on retail sales, generating sales tax for the state and local governments. If all of the people who normally work political campaigns no longer could be employed by campaigns, there would be significant belt tightening by these individuals which would result in additional lost sales tax revenue.

Nixon also spent more than $9 million dollars on "media." All of that money went to an out-of-state media company. Still, traditionally that company coordinates all the media

[2] Nixon had raised significant contributions prior to 2012 for the 2012 election cycle. If the proposed IP had been in effect, the loss of economic activity would be even greater.

purchases, which presumably were with in-state media providers, as Nixon was running for Governor of Missouri. While some of the $9 million dollars could be attributable to media production, the majority of it was likely for paid radio, television, and print advertising in Missouri. The loss of $9 million dollars in the Missouri media market in a single year is significant.

Nixon also paid more than $850,000 to other Missouri individuals or companies. Many of these expenditures were in the services and accommodations sectors. This money supports Missouri businesses and helps fund their payroll.

We have already seen that a similar proposed measure would have reduced Nixon's total campaign contributions by 72.58%. Assuming that proposed measure would decrease spending by the same amount, we can project what Nixon's spending would have looked like with 2600 contribution limit in place.

Nixon 2012		
	Spending (Dollars)	Projected Spending with Contr. Limits
Payroll & Field Work	$745,023.80	$204,285.53
Missouri Taxes	$63,404.72	$17,385.57
Federal Taxes	$330,642.56	$90,662.19
Media	$9,181,550.00	$2,517,581.01
Other Missouri Expenditures	$866,243.68	$237,524.02
Out of State Expenditures	$1,039,072.50	$284,913.68
	$12,225,937.26	$3,352,352.00

The $2,600 cap proposed measure would have translated into a spending decrease of $8.87 million dollars. Again, for just one campaign for just one year. Even if you assume only 75% of the "media" expenditures affect Missouri's economy, approximately 70% of Nixon's total campaign expenditures affect the Missouri economy. In total, just one year of one

campaign resulted in approximately $8.5 million dollars of expenditures in or affecting Missouri's economy. This estimate does not include the multiplier effect of such expenditures.

2014-054

For this proposed measure, the campaign contribution limits would not apply to statewide elected officials. In addition, the limits are significantly lower than 2014-032. If anything, the Nixon analysis overstates the amounts that would be allowable under 2014-054.

The Effect on the State of Missouri

According to the Missouri Ethics Commission, total expenditures by candidates that would be affected by the proposed measure were more than $20 million dollars in 2012. Reducing that number by the percentage of allowable contributions we saw with the Nixon campaign (27.42%) translates to a loss of more than $14.5 million dollars due to the initiative petition.

Statewide 2012			
	Spending (Dollars)	Projected Spending with Contr. Limits	Lost Dollars due to IP
Payroll & Field Work	$1,218,000	$333,975.60	$884,042.40
Missouri Taxes	$104,000	$28,516.80	$75,483.20
Federal Taxes	$540,000	$148,068.00	$391,932.00
Media	$15,020,000	$4,118,484.00	$10,901,516.00
Other Missouri Expenditures	$1,418,000	$388,815.60	$1,029,184.40
Out of State Expenditures	$1,700,000	$466,140.00	$1,233,860.00
Projected Effects	20,000,000	5,484,000	$14,516,000

The loss of these payroll amounts impacts state revenues in two ways: (1) the loss of state income taxes on these amounts and (2) the loss of state sales taxes forgone. First, the amount of

state income taxes can be estimated taking the total payroll figure, applying the multiplier, and multiplying by the tax rate of .06%. Here, lost income tax revenue would total $265,207.32. In estimating lost sales tax amount, the multiplier must be applied. Previous research has suggested using a local fiscal multiplier of 5.[3] Assuming 35% of the payroll income is taxable spending, the total lost sales tax revenue would be more than $65,000.

With respect to the media spending, assuming only 75% of that translates to Missouri corporate income, and applying the corporate tax rate translates into a loss of approximately $511,000. Also assuming that half of the media spending is paid out to employees in salaries, there would be lost income taxes and sales taxes on that amount. There would be approximately $1,635,227.40 in lost income tax. There would be a corresponding loss of state sales tax revenue from this loss of salary in the amount of $337,048.48. Finally, there would be sales tax lost on the "other Missouri expenditures." Even assuming only half of such expenditures were taxable, applying the multiplier and the sales tax rate, the state would lose $130,326.46 of sales tax revenue. The total loss to Missouri state government (based on only one year of one election cycle) is at least $3 million dollars.

2014-032 Impact on the State	
Lost State Income Tax due to lost campaign payroll	$265,207.32
Lost State Income Tax due to lost media payroll	$1,635,227.40
Lost State Sales Tax due to lost campaign payroll	$65,362.55
Lost State Sales Tax due to lost media payroll	$403,015.42
Lost State Sales Tax on "Other Missouri Expenditures"	$130,326.46

[3] A multiplier helps estimate the direct impact, indirect impact and induced impacts. Direct impact includes the payroll dollars being paid. Indirect impact represents the impact of routine consumer spending by those individuals. Induced effects are those changes in spending due to additional (or lost) employment generated by the direct and indirect effects. "Expenditure Multiplier" attached as Appendix B.

Lost Corporate Income Tax on media companies income	$511,008.56
TOTAL	$3,010,147.71

The Effect on Local Government

In addition, the proposed measure would have a significant effect on local government revenue. In St. Louis and Kansas City, a 1% earnings tax is collected on income. There would be losses associated with both the lost campaign payroll and lost media payroll, in the amounts of $5,745.27 and $35,424.48 respectively.[4] In addition, the average local sales tax rate is 3.45% in Missouri. This rate was applied to the same tax bases as described above, resulting in total lost sales tax revenue of over $450,000. The total loss to local governments as a result of the proposed measure exceeds $500,000.

2014-032 Impact on Local Governments	
Lost Earnings Tax due to lost campaign payroll	$5,745.27
Lost Earnings Tax due to lost media payroll	$35,424.48
Lost Local Sales Tax due to lost campaign payroll	$53,372.97
Lost Local Sales Tax due to lost media payroll	$329,089.51
Lost Local Sales Tax on "Other Missouri Expenditures"	$88,767.15
TOTAL	$512,399.38

[4] In 2011, the population of St. Louis and Kansas City as a percentage of total state population was 12.998% according to the U.S. census bureau. Applying this percentage to the total payroll statewide generates an estimate of payroll that would be subject to the earnings and income tax. This estimate will likely underestimate the actual fiscal impact because the earnings tax is collected from all city residents and all non-city residents who work within the city limits.

Limiting Lobbying Expenditures

The proposed measure also significantly restricts lobbying expenditures. Restricting spending by Missouri lobbyists in Missouri would also affect Missouri's economy. Particularly, restricting lobbyist spending would have a negative economic effect on the City of Jefferson and Cole County, where lobbyists spend the majority of their time from January to May of each year. The Auditor is encouraged to contact both jurisdictions to clarify and quantify that impact.

Conclusion

The proposed measure would have a significant negative economic impact on both the state and local governments in Missouri.[5] In just one year, total election spending amounted to almost $50 million in Missouri. Election spending by candidates affected by this measure would amount to more than $20 million. The proposed measure would drastically reduce election spending. State and local governments would lose income and earnings tax revenue and sales tax revenue, not just on the amount of decreased election spending, but much more, due to the multiplier effect. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. We submit the following proposed statement of fiscal impact:

> It is estimated this proposal will increase state government costs by at least $118,000 annually and have an unknown increase in costs for local government entities. The potential negative impact to revenues for state and local governmental entities could be significant, but is unknown.

[5] To the extent the Auditor finds the numbers herein "speculative," we request that the Auditor specifically request an estimate from Office of Administration (Budget and Planning) on the negative effects of campaign contribution limitations.

Local Economic Growth from Primary Election Spending*

Rebecca Lessem†

Carly Urban‡

December 4, 2012

Abstract

This paper asks how government and private consumption spending affect earnings in service sectors. To do this, we exploit a natural experiment, using an exogenous form of consumption spending–the money spent while campaigning for a party's Presidential primary nomination. To answer these questions, we create a novel dataset combining the date each state held its primary from 1976-2008, the date in each election cycle in which only one candidate remained, and quarterly state income by sector. Hosting a primary election increases total income, particularly in the accommodations sector. These results remain consistent when using data on primary campaign expenditures across states in the 2004 and 2008 elections.

JEL codes: D72, H30

*The authors acknowledge helpful comments from Dennis Epple, Amit Gandhi, Ken Goldstein, Andrew Reschovsky, John Karl Scholz, Alan Sorenson, and Chris Taber. All remaining errors are our own.

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Appendix A

1 Introduction

Government expenditures have been found to increase employment and income.[1] However, this literature restricts itself to studying investment expenditures in the form of education, health, military, and infrastructure spending, leaving the question, "How does added consumption spending affect income?" unanswered.[2] This paper uses a natural experiment to estimate the relationship between consumption spending and short-run income growth by exploiting exogenous variation in the duration and ordering of Presidential primary campaigns.

In 2008 alone, these campaigns spent $348 million across states on hotels, meals, rental cars, and other campaign expenditures.[3] This figure does not include the amount spent by media covering the race, personal in-state expenses of staffers, or additional funds individuals outlay when coming out to witness the spectacle of a primary race. We use this exogenous spending to determine the short-run income growth when money enters a state economy.

Primary elections are held sequentially by state and each election cycle varies in duration due to changes in the competitiveness of elections. In some years, there is no primary in many states, as the nomination is determined long before each state has its turn to vote for a nominee.[4] For example, in 2004 Senator Kerry clinched the Democratic nomination in March, whereas in 2008 President Obama did not win the nomination until June. In

[1] See for example, Wilson (2011), Shoag (2010), Serrato and Wingender (2010), Chodorow-Reich et al. (2011), Ramey (2011), and Ramey (2011a).

[2] To a certain degree, this question has been addressed in the literature on the economic impact of mega-events such as the Superbowl, Presidential Nomination conventions, and the Olympics, (See Matheson (2006) and citations therein). However, it differs in certain respects, most importantly in that we have a stronger identification stratedy. In primary elections, there is ex-ante uncertainty as to whether or not a state will be reached by primary campaigns, whereas mega-events are planned far in advance. Mega-events allow an area to anticipate additional consumption expenditures and internalize the benefits by increasing up front costs. However, the value of consumption spending in a primary is unanticipated ex-ante and the variance in spending between hosting and not hosting a primary is high, deterring businesses from internalizing the benefits prior to the event. Second, candidates campaign in areas to reach the maximum number of pivotal voters not in the most desirable tourist locations, so it is unlikely that crowd out of the local tourist sector occurs in this setting as in the prior vein of literature.

[3] Authors' calculation based on CRP (2011).

[4] We consider the nomination determined once there is only one candidate remaining in the contest.

particularly long primary elections, local businesses in states that are not normally exposed to primary campaigns receive an exogenous increase in revenue. In addition, many states change their position on the primary calendar between election cycles.

This paper first establishes the exogeneity of campaign spending and economic indicators. Next, we exploit the variation in whether or not a state receives campaign spending in each year to test how this increased spending affects local economies. Specifically, we study how income growth is affected by the presence of a primary in a given state and quarter.[5]

To conduct this analysis, we create a novel dataset of primary and caucus dates from 1976-2008, where we determine if a state held a primary based on the scheduled primary date and the date in which only one candidate remained in each party's election. We pair this primary elections data with quarterly state-level and sector-specific information on personal income levels from the Bureau of Economic Analysis (BEA).

We find that the presence of a primary increases overall income, as well as income in service-related sectors. From 1976-2008, income growth increased by 0.53 percentage points in states with primaries, compared to an average income growth of 1.3 percentage points per quarter. This implies about a 41% increase in the quarterly income growth rate in quarters when there is primary spending. Our results are robust to controlling for factors related to the amount of spending as well as to including state fixed effects. We verify these results using data on campaign expenditures for 2004 and 2008 from the Center for Responsive Politics.[6] In this setting, we find that doubling campaign expenditures increases overall income growth by about 0.05 percentage points (or hosting a primary results in a 35% increase in quarterly income growth rates), and this effect is particularly pronounced in the accommodations sector.

[5]The idea that election outcomes could affect the economy is not new. Snowberg et al. (2007) use prediction market analysis of elections from 1880-2004 to show that electing a Republican President raises equity valuations by 23%. Knight (2006) shows that policy platforms in the 2008 Presidential general election were capitalized into equity prices. No one has previously asked how the act of campaigning can affect the economy.

[6]Data on campaign expenditures are only available for these two years.

We appeal to two distinct literatures in this paper. First, the existence of primary elections provides a new environment in which to study local economic development, through exogenous shocks to consumption expenditures. Recently, scholars and policymakers have expressed interest in the American Recovery and Reinvestment Act (ARRA) spending. Wilson (2011) and Chodorow-Reich et al. (2011) use instrumental variable strategies and find that one new job created costs $125,000 and $26,300 per year, respectively.[7] Asking a similar question Serrato and Wingender (2010) find that an additional job costs $30,000 per year, using an instrumental variables strategy and data on federal investment spending. Similarly, Shoag (2010) uses the idiosyncratic component of state-managed defined benefit pensions to predict government spending. He finds that $35,000 of spending generates one additional job.

In comparison to the papers just mentioned, we avoid the natural endogeneity concern that spending is often allocated to states in the most need of growth.[8] Candidates campaign as to maximize their chances of winning the election, which generally means following the primary calendar. Candidates campaign in states sequentially, and tend to not visit a state until the primary is upcoming. One reason for this is that individual victories create momentum to propel a candidate to his next contest.[9] In addition, candidates also have a disincentive to over-spend in the primary, as they want to save any potential funds for the general election battle, conditional on winning the nomination. For these reasons, the optimal strategy for candidates is to campaign sequentially, meaning that the allocation of funds will depend on the primary schedule and will be exogenous to local economic conditions.

In addition, our paper studies the effect of spending on a different set of sectors than is normally assessed. Most of the ARRA funds were centered around Medicaid and

[7]Chodorow-Reich et al. (2011) find that the jobs resulting from Medicaid spending are concentrated in the state and local government, health, and education sectors.

[8]This is particularly true in the cases of the ARRA spending, though Knight (2002) shows that this can also be true in the transportation sector.

[9]See Abramowitz (1989), Abramson et al. (1992), Mutz (1998), Adkins and Dowdle (2001), Callander (2007), Strumpf (2002), and Klumpp and Polborn (2006) for more on the necessity of momentum in primary contests.

education, and other federal spending initiatives focused on infrastructure investment, energy efficiency, unemployment assistance, and state and local government stabilization (111th Congress 2009). On the other hand, primary spending likely benefits the local economy in the service-related sectors. Another unique feature of our work is that transfers do not entirely come from the federal government, allowing us to study how increases in consumption expenditures in the form of transfers can affect income growth. Primary campaigns are sometimes funded through federal matching, but candidates vying for their party's presidential nomination rely on money from individual donors and from Political Action Committees.[10]

Second, while we establish that the duration of a primary and the time in which states changed their primary dates are uncorrelated with economic indicators, our paper adds to the literature investigating the incentives for states to hold early primaries.[11] States early in the primary process are presumed to have a disproportionate effect on candidate selection by building candidate viability, attracting donors and volunteers, and creating momentum (Abramowitz 1989; Abramson et al. 1992; Mutz 1998). Some work examines the policy benefits of early contests. Taylor (2010) finds no effect, while Knight and Schiff (2010) find that early contests had a 20% greater influence over candidate selection than later contests in 2004.[12] Similarly, Malhotra and Snowberg (2011) find that the order mattered less than pivotal, or competitive, primary contests in 2008. Theoretical work demonstrates that voters can use early contests as cues in determining their vote choices.[13] This paper is the first to investigate the potential economic benefits of having an early

[10]See Section 6 for more on federal funding percentages.

[11]States have a demonstrated interest in holding early primaries. For example, in 2008 Michigan and Florida moved their primaries to January, and this was rejected by the DNC. Democratic candidates agreed to refrain from campaigning in these states, and the delegates were not counted in the candidates' totals. This did not deter Florida from moving its primary up in the order again in 2012, which was this time rejected by the RNC, costing the state half of its delegates (Grice 2012). Thus, moving a primary contest too early can be costly, yet states are still attempting to change their primary dates.

[12]Taylor (2010) uses state procurement data from 1984 to 2004 to show that primary order matters only in competitive nominations when the victorious candidate won that states contest. Knight and Schiff (2010) use changes in prediction markets over the election to identify influence.

[13]See Morton and Williams (2001), Callander (2007), Serra (2011), and Ali and Kartik (2006).

nomination contest.[14]

The remainder of the paper is organized as follows. Section 2 describes the construction of the dataset. Section 3 provides descriptive statistics and motivates our identification strategy. Section 4 explains our empirical strategies and presents our findings. Section 5 discusses the source of campaign funds, and Section 6 provides concluding remarks.

2 Data

We combine institutional details of primary races dating back to 1976 with state-level personal income data from the Bureau of Economic Analysis (BEA), creating a comprehensive Presidential primary and local economic database. In the next 3 sub-sections, we explain how we collected these data. For more information on the specifics of the variables created, including summary statistics, the source of each variable and the calculation of each variable, see Tables 8-10 in Appendix A.

2.1 Primary Information

We hand-collect a thorough database of the dates of each primary or caucus in each state starting from 1976, which is the first year the Democratic National Committee (DNC) and Republic National Committee (RNC) held conventions in their current forms, and ending in 2008.[15] We obtain this information from the Green Papers (for primaries), as well as Frontloading HQ (for caucuses), and confirm these with state election boards when the two are not consistent. When a state's delegates are determined by only state party officials (and not in caucuses or primaries with individual voters), we count this as

[14]A parallel literature looks at the effects of the primary structure on general election outcomes. The primary process may constrain candidates from converging to the position of the median voter, as they will take on more extreme positions to satisfy primary voters who are less moderate than the general population (Geer 1988; Norrander 1989). Malhotra and Snowberg (2011) study the effects of early contests more broadly, including candidates' difficulties of returning to the center in the general after trying to attract primary voters.

[15]This means that individual voters, not party elites, began selecting candidates in each state. The candidate with the most delegates earned the nomination at a national convention.

a case where the state did not have a "primary." In cases where states hold a "beauty contest" nomination, where individual voters choose their favorite candidate but there are no delegates at stake, we count this as having a "primary," as some candidates find it important to win a symbolic victory in these states to gain momentum.[16,17]

Next, we collect information on the date at which the nomination was clinched for each party in each year. We award a candidate the nomination when he is the only candidate left in the contest, meaning that the primary campaigning has ended. This sometimes occurs months before the convention date. Table 1 contains the dates at which candidates clinched the nominations over time. In cases where the incumbent was not challenged in the primary, such as 1984 for Ronald Reagan, we code the primary for that party as "no primary."[18]

Additionally, in certain situations there could be spending for the primary and the general election at the same time. For example, in 2004, when President George W. Bush was the incumbent, he immediately began campaigning for the general election because he had no competition in the primary. During this same time period, Democrats were competing for their party's nomination. Likewise, in 2008 Senator McCain started to campaign for the general election once he clinched the nomination in March, whereas the Democratic primary continued for three additional months. We want to be sure that we are measuring the effect of primary election, not general election, spending. Thus, we collect data on the battleground states for each election cycle, asserting the conventional wisdom that candidates only campaign in battleground states in Presidential general elections (Stromberg 2008; Ashworth and Clinton 2007; Huber and Arceneaux 2007).[19]

[16]States holding these "beauty contests" usually choose their candidate based on conventions and state party officials' decisions. After 2000, there are some instances where there were no delegates at stake, after a state had moved up in the primary process and one of the national committees considered this unconstitutional , i.e. Michigan and Florida in 2008. These two states still had campaigning from the Republicans, so we include them in this context alone.

[17]The primary dates by party for each state and year combination from 1976 to 2008 are available upon request.

[18]All incumbents do not have the luxury of having no opposition in the primary election. For example, President Carter's low approval ratings gave the DNC justification to push other candidates, including Edward Kennedy, to challenge him in the primary contest.

[19]See Section 2.3 for more on spending.

We label a state as a battleground state if the difference in the likelihood the Democratic candidate wins and the Republican candidate wins is ever within 10 percentage points in Intrade prediction markets or polling data (specifically, pollster.com and David Leip's polling report). In earlier elections when polls are more sparsely available (i.e., 1976-1992), we instead look at the races where the candidates' end vote shares were within 10 percentage points of one another.[20] Finally, a state can only be labeled as a battleground state if 1) the election cycle has started and 2) the primary contest in at least one party has been completed (i.e., only one candidate is remaining).[21]

2.2 Income

The BEA reports total personal income in each quarter and state, for each sector of the economy. For the purpose of this paper, we refer to total earnings (excluding government transfers) as total income. We transform this into per-capita values using population data from the US census. In addition to total income per capita, we focus on the sectors where we would expect large effects from primary spending, which are mostly service related sectors. Accommodations and retail are two sectors we focus on, in that the visiting campaign staff and media will need to stay in hotels and make purchases during the campaigns. The accommodations and retail sector accounted for about 5% and 9% of total income in 2008, respectively.

The BEA data is divided into 2 periods: 1974-2001, and 1990-2009, and the sector definitions changed across the two periods. We focus our analysis on the services sector, particularly food and accommodations, because that is where we expect to see the largest effect. In the data from 1974-2001, the BEA only reports total income in the services sector. However, in the 1990-2009 data, they divide services into different groups, including food and accommodations, which we focus on. We therefore do the analysis separately

[20] A list of each state and the years in which the state was a battleground in competitive in the general election is shown in Appendix B.

[21] Conditional on hosting a primary in a given quarter, the probability that a given state is labeled a battleground state in the same quarter is less than 39 percent.

for each period due to these data limitations.[22]

2.3 Campaign Expenditures

We obtain campaign expenditures data for the 2004 and 2008 primary election cycles from the Center for Responsive Politics (CRP), which collects and compiles data from the Federal Election Commission.[23] These data contain information on each expenditure made in House and Presidential races by campaigns, Political Action Committees (PACs), and state parties, where each expense contains a date, location (down to zip code), and information on what the expense entailed (i.e. hotel). We narrow this dataset to include only expenses made in pursuit of the primary nomination by the Presidential candidate's official campaign, i.e. "Barack Obama for President, 2008." We do not include PAC spending as it is difficult to understand for which campaign the PAC is spending its funds (i.e. Presidential or House) in the data.

These data also include information on the division of the campaign in which the expense was made. We create two different measures of expenditures. Campaign expenditures consist of all money spent by the candidate and his direct staff on travel, hotel rooms, and meals, as well as local polling, Get-out-the-Vote campaigns (GOTV), and campaign events. In addition, campaign expenditures include what the campaign calls "administrative expenditures," which includes all money spent on the offices within a state and its staffers. This mostly consists of spending on catering for meetings, rent, utilities, cable, and internet in campaign offices, administrative supplies (associated largely with IT costs), and staffer travels (rental cars, housing, flights, etc.). Total expenditures include all expenses listed under our campaign expenditures measure, as well as money spent on broadcast, radio, and print advertising, along with other media-related costs (i.e., media consultants, production costs of advertisements, and miscellaneous costs related to getting

[22]We attempted to aggregate the 1990-2009 data to get a total measure of income in the services sector. Since the years 1990-2001 are included in both datasets, we can compare to see how similar the two measures are. They are very different, which is why we could not use this aggregated services income in the same analysis as the 1974-2001 services data.

[23]See CRP (2011) for more information on the dataset.

out the message).

The total expenditures are likely to include some expenses that do not directly affect a state's local economy at the time of a primary, though they are expenses made for the primary campaign. For example, the production of an advertisement run in Iowa could be done in California, and thus included in this measure. The production could also be done in Iowa, however, and it is not feasible, given the data, to distinguish the two. Thus, for the remainder of the paper, we choose to focus on the campaign spending measure in favor of the total expenditures measure.

We expect that campaign expenditures are a good proxy for the candidate's travel and the campaign's direct expenses. However, the administrative portion of the campaign expenditures are likely a lower bound for the amount of money staffers spend in each state during the campaign. For example, if campaign staff goes to a restaurant in the evening, this will not be covered as a campaign expense, especially if the meal includes alcohol. This spending amount is a lower bound for total exogenous spending in the area, since national news and media crews also tend to follow and cover the primary schedule state by state. Even with this lower bound, states with primaries tend to see between one half a million and 19 million dollars in spending over an election cycle. Comparing this to the median total income in the retail and accommodations sectors, 7.14 and 3.3 billion respectively, this is still enough money to modestly boost local income growth.[24]

3 Descriptive Statistics

In this section, we first argue that the timing and existence of a primary campaign is exogenous to local economic growth. We next look at the campaign expenditures data from 2004 and 2008 to establish that there is more spending during primary campaigns.

[24]If we instead use total expenditures instead of campaign and administration expenditures in the analysis that follows, our results are slightly smaller in magnitude, though they remain substantively similar to the estimates provided. These results are available upon request.

3.1 Exogeneity of Primary Campaigns

The identification strategy in this paper comes from the orthogonality of primary campaign spending in a given state and the state's local economy, where the nature of primary contests gives candidates an incentive to campaign sequentially. Since this money is not targeted to states with the most need, the shock to consumption expenditures generated from primary campaign spending is exogenous to income levels. Iowa's primary is always first in the election cycle, so the state should expect the millions of dollars spent in local businesses by the Presidential campaigns, media crews, and the ceremony of the primary election. Since the natural experiment fails in this case, we drop all states that have a primary in every year in our analysis. Other states, however, experience more variation in regards to (1) whether or not any money will be spent in primary campaigns and (2) how much money will be spent. This variation comes from two main channels.

First, the duration of any primary campaign is unknown ex ante. While some primary campaigns leave only one candidate in each party after only a few months (i.e. in 2004 when Senatory Kerry clinched in March), other election cycles (i.e. 2008) carry on until June, reaching every state. Figure 1 shows the variation, by party, of the number of states reached by campaigns in each election cycle. This shows significant fluctuations in the number of states that have primary elections each year, particularly in Republican primaries. Alternatively, Figure 2 plots the duration of primary campaigns over time, where the duration is defined as the number of days from the first primary until only one candidate remained in the contest.[25] In general, the early contests from 1976-1992 took longer to determine each party's candidate.

Figure 2 additionally plots the average real GDP per capita in the US over time, reassuring us that the duration of primaries is uncorrelated with the state of the economy.[26] To provide a specific example of the changes in primary campaigning between years, we

[25]Since there are potentially 2 primaries in each state and year, there is a duration for each contest. We plot the length of the longer primary in each year.

[26]When regressing real GDP per capita on the duration of primaries, we find no statistically significant relationship between the two variables.

show the changes in primary status by states between the 2004 and 2008 elections. Figure 4 shows which states switched primary status between 2004 and 2008. Comparing just these 2 election cycles, we see that there are many states that had primaries in 2008 but not 2004, due to both the fact that there was no Republican primary in 2004 and the length and competitiveness of the 2008 Democratic primary.

Second, the ordering of primaries across states has changed drastically from 1976 through the present day. Although national parties have some influence on the timing of primaries, the decisions are ultimately made by each state. There has been significant movement in the primary calendar over time. The change in ordering also allows for some states to experience campaign spending in some election cycles and not others. In addition, if a state's primary moves to a day in which many other states hold their contests, this may lead to a reduction in campaign spending in that state. This gives us variation in both the existence of and amount of spending by primary campaigns.

The argument in our paper implies that states should have an incentive to move their primaries earlier in the calendar in order to gain economic benefits. If this were true, then we could no longer argue that primaries are exogenous. However, we do not believe that this is the case, due to the lengthy process involved in changing primary dates. In order for a state to be able to change its Presidential primary date, the state legislature must propose a bill, which in most states is an extremely lengthy process, where less than 5-10% of bills are passed.[27] The lengthy process creates difficulty for states to change their date in a timely fashion, making it unlikely that the primary date will be switched (and reached) when the state's economy is at its worst. In addition, the state and national party officials must approve the change in date for the state's delegates to count in the nomination process.

Furthermore, even though this change of date is under the authorization of state

[27]Most states have dates like the following from Montana's Constitution: 13-1-107. Times for holding primary elections. (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state (The Constitution of the State of Montana, 2011).

elected officials who have an interest in state policy, a state's change in ordering is seemingly uncorrelated with a change in economic indicators. To demonstrate this, in each year we split the states into two groups: those who changed their primary date from the previous election, and those that did not.[28] Figure 3 plots the average GDP growth in both groups over time.[29] The graph also shows the number of states that changed their primary date in each year. This figure shows no systematic difference between the GDP growth in both groups over time.[30] We also see that there are a large number of states that change their primary dates each year, showing that this provides an important source of variation.

An additional literature on vote-buying suggests that politicians can adjust funds on a state-by-state basis (See e.g., Levitt and Snyder (1995); Fleck (2008)). If government funds are correlated with campaign spending, this could additionally confound our effect. However, the ability of politicians to adjust the allocation of government funds quickly on a state-by-state basis is limited. For example, Senator Kerry would have trouble providing a voting record that appeased each state he visited in his Presidential primary campaign surrounding the time of that state's election. This makes the approach taken in this paper more compelling than studies that focus on differences in policy spending over time as exogenous variation.

3.2 Primary Spending

In this paper, we study whether the existence of a primary increases local income. For there to be an effect, there has to be more campaign spending in states with primaries. To verify that this is true, we use data on campaign expenditures from the 2004 and 2008 primary elections. Table 2 shows the distribution of spending for primaries by quarter,

[28]We label a state as having changed their primary date if the date of the primary made a substantial change (i.e. more than 2 weeks) such that it took an initiative within the state's Board of Elections and changed the ordering of the primary schedule.

[29]The average GDP growth takes percentage growth of GDP between two years of each state (in each group) and takes the average of those observations by year.

[30]A t-test shows that the difference in the means is not statistically different than 0.

where states with primaries in the current or next period have higher spending than areas without primaries. We see that spending increases not only increased during the quarter of the primary, but also in the quarter before the primary. Early spending could occur because candidates campaign in some states for an extended period of time, especially when the race is on the cusp of two quarters.

Next, we look at the changes in spending in states as they change primary status over the years, to ensure that having a primary leads to increased spending. In general, we see that states that did not have a primary in 2004 and did have one in 2008 tended to have more spending in 2008. Figure 4 shows the states that held a primary in 2008 and not in 2004, and Figure 5 shows the percentage change in expenditures between the two election cycles. States such as Pennsylvania and Utah, which were reached in the lengthy Democratic campaign in 2008, had over 20 percent more primary spending in this election cycle than they did in 2004, when the process culminated before the state was reached. There is also an increase in spending from 2004 to 2008 in early states like Iowa, South Carolina, and New Hampshire, where the increased number of candidates and the fact that both parties held primaries increased the spending in those states. Conversely, the state election boards in Michigan and Florida moved their Presidential primary contests up, and set the elections in January 2008. The DNC challenged these moves, and in turn, Democratic candidates opted to not campaign in these states. Thus, spending in these states actually decreased from their later primary day in 2004.[31] Overall, these figures show variation in spending in states, depending on whether or not there is a primary in that year. This supports our argument that there will be more spending in states with primaries.

Using the spending data and the primary dummies in 2004 and 2008, we estimate the

[31]There are cases where state boundaries provide a neighboring state with additional spending when there is not a primary in that state. For example, New Jersey benefited from New York's early primary on a day independent of all other primary contests in 2004. This is because candidates spent money renting cars, purchasing hotel rooms, and eating some meals in New Jersey, though they were officially campaigning in NY. When compared to 2008, even though NJ held its own primary, it did this on a day when many other states also held primaries, as did NY. This made spending higher in the previous election cycle.

relationship between the existence of a primary and spending growth, while controlling for the same factors we take into account in our later analysis. We first construct a set of control variables we expect to be correlated with the intensity of spending. The structure of the primary calendar is such that there is often one day with many of the elections, typically called "Super Tuesday." We control for whether or not an election in a state is on this day each year.[32] Another possibility is that in states with late primaries, early spending for the general election when one party's nominee has been determined and the other has not could falsely lead to higher levels of income growth, especially in battleground states. To account for this, we control for whether or not a state is a battleground state in periods after one party's candidate has been chosen.[33]

The first column in Table 3 shows that the existence of a primary more than doubles spending growth in that quarter, when compared to states without primaries. Primary spending growth is lower in "Super Tuesday" states when compared to states with primaries on other days, as "Super Tuesday" elections make it hard for time-constrained politicians to campaign everywhere. In addition, battleground states tend to have significantly lower spending growth than non-battleground states. This result is not surprising since our dependent variable is only primary spending growth, and does not include money earmarked for the general election.[34] In addition, competitive states are always labeled as "battleground" in the third quarter of the election year, or the height of the general election. This is the time in which primary growth is most likely to be negative, or lower than the previous period. If we add state level fixed effects to this model, as in Column (2), we see that primary campaigning still more than doubles spending growth when com-

[32]Our "Super Tuesday" control is defined as the day each year that has the most primary elections in a given state. The list of states with primaries on "Super Tuesday" in each year is shown in Appendix B. "Super Tuesday" is always reached, so it is an interaction term between the primary dummy and having an election on the given date.

[33]We could include a control for whether or not a state held a competitive primary. For example, in President Bush's home state of Texas, he may have already been a favorite and not needed to campaign. However, enough states have a proportional share of electoral votes, so candidates still receive votes towards the final count if they do not win a majority in a given state.

[34]The probability of being in a battleground state in a given quarter conditional on having a primary in the same state, quarter is less than 36% in this sample.

pared to a period when the state did not have a primary. Hosting a primary on "Super Tuesday" lowers this substantially, as does being in a battleground state.

4 Empirical Analysis

In this section, we estimate the effect of primary spending on local economic development. We first test how the existence of a primary before the nomination has been determined affects changes in income growth from 1976-2008. We then verify these results using data on campaign expenditures across states in the 2004 and 2008 elections.

4.1 Existence of a Primary

We assume that a state's income in a given quarter depends on whether or not there is a primary in a given time period, a set of control variables, and state and year fixed effects. Let P_{it} be a dummy variable indicating whether or not there is a primary in state i at time t. Denote the log average per capita income in sector s in state i at time (year) t as y_{ist}, state fixed effects as μ_{is}, time fixed effects as γ_{st}, control variables as X_{it}, and the error term as ϵ_{ist}. Then we can write

$$y_{ist} = \beta_{0s} + \beta_{1s}P_{it} + \beta_{2s}X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist} \tag{1}$$

Taking first differences of Equation (1), the state and year fixed effects drop out:[35]

$$\Delta y_{ist} = \beta_{1s}\Delta P_{it} + \beta_{2s}\Delta X_{it} + \hat{\epsilon}_{ist} \ , \tag{2}$$

where $\hat{\epsilon}_{ist} = \Delta\epsilon_{ist}$.

We estimate equation (2) and look at how changes in the primary dummy variable

[35]The year fixed effects do not drop out in every period. Since we are using quarterly data, as we go from the 4th quarter of one year to the first quarter of the next, the year fixed effects technically will not difference out. However, since they would only be identified off of one quarter per year, we chose to drop these year fixed effects.

affect income growth in different sectors. Identification in this specification comes from comparing states with primaries to those that do not have primaries. We define a state as having primary spending if there is a primary in the current quarter or in the next quarter, acknowledging that candidates sometimes spend an extended amount of time campaigning in a state.

We drop states that have primaries in every election year, as it is hard to argue that the existence of a primary is exogenous in states that anticipate primary spending each cycle. Perfect foresight of primary spending may allow individuals to internalize more upfront costs, where business that normally would not be open in a given season may change their behavior since they know primary campaigns will spend there with certainty each cycle. These states invalidate the natural experiment present, where it is necessary to maintain uncertainty in the timing and duration of primary elections. Dropping these traditionally early states leaves us with a sample of states for which there is variation in whether or not there is a primary, so each election cycle contains uncertainty as to whether or not they will receive primary spending.

We present the unconditional effects of hosting a primary. Since the existence of primary campaigns are exogenous to the state of the economy, the unconditional effects of campaign spending will be unbiased. In this specification, we still include quarter fixed effects to control for seasonal fluctuations in income. We control for variables that may affect the volume of spending, such as having a primary on "Super Tuesday" and whether or not the state was a battleground in the given period.

In Table 4, we show results for total earned income, as well as in sectors where we would expect the largest effect from primaries: accommodations, services, and retail trade. We expect accommodations to be particularly affected; however, this measure is not available for the early data, so we instead use the services sector for the first time period. The data from the later time period shows that accommodations is the service sector most affected by primary spending. We expect that primary campaign spending will directly affect the accommodations sector, as increased revenues from hotel room, catering, food services,

and additional expenses the campaigns incur flow straight into this sector. The definition of retail trade changed slightly between the two periods provided. However, since we are looking at growth, we pool the observations from the two time periods. To account for this difference, we include a dummy variable in the estimation to account for which time period the data is from.

The first three columns of Table 4 show that primary spending increases total income growth by approximately 0.53 percentage points, where the average state income growth reported in Table 8 in Appendix A is 1.3%. Primary spending increases income in the services and accommodations sectors by 0.76 and 0.47 percentage points, respectively (where the mean growth rates are 2.1% and 1.1%, respectively). For retail trade, we see a positive effect of primary spending on income levels, though this is not statistically different from zero.

Table 4 also shows that having a primary on Super Tuesday decreases the overall effect in Columns (1)-(5), so much so that they negate any positive effect of hosting a primary. This is expected because candidates devote less resources to each state if there are multiple primaries on the same day, as shown in Table 3. We do not find a statistically significant effect of being a battleground state. The timing is set such that states count as a battleground starting, in the calendar year of the election, when one candidate in either party has clinched the nomination. When an incumbent is not challenged in a primary, a state that is competitive in the general election is classified as a battleground state starting in the first quarter of the election year. However, the most intense campaigning occurs during the 3rd quarter of each election year. When we only allow states to be classified as battleground states in the third quarter, the battleground dummy variable is positive and statistically significant. This implies that income growth increases in battleground states later in the election cycle, possibly due to spending for the general election.

In an alternate specification, we also include state fixed effects when estimating Equation (2). In the initial setting, the state fixed effects dropped out of the regressions because we study income growth. In this next specification, we allow for state fixed ef-

fects in growth rates. This changes the identification of the dummy variable for primary elections. Without state fixed effects, the coefficient on the primary election variable was identified by comparing the income growth in states with and without primaries. By including state fixed effects, the coefficient is identified by comparing income growth in a given state when the primary variable changes values. The results with state fixed effects are in Table 5. This does not substantively change the results.

This increased income could come through increased labor force participation, or an increase in hours worked (as well as overtime pay) for current workers. Using data from the Bureau of Labor Statistics on the number of workers in each sector on a monthly basis, we find no effect of primary elections statistically different from zero. This implies that our results are due to increased hours worked for current workers in the sector.[36]

4.2 Expenditures

Next, we verify the results in the previous section with data on the amount spent by campaigns in each state during the 2004 and 2008 primary elections. This setup allows for an extra source of variation resulting from differences in expenditures across states and time.

Denote logged spending in a state as e_{it}, and y_{ist} is defined identical to Equation (1).[37] Then

$$y_{ist} = \beta_{0s} + \beta_{1s} e_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist}$$

Taking differences,[38]

$$\Delta y_{ist} = \beta_{1s} \Delta e_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \tag{3}$$

[36] In these results, we use the same specification as above. These results are available upon request.

[37] If we instead use per capita spending, our results are almost synonymous. This is because there is little change in state population between quarters. These results are in Table 13 in Appendix C.

[38] The year fixed effects will not difference out as we go from the last quarter of each year to the first quarter of the following year. However, since they would only be identified off of one quarter per year, we choose to drop the year fixed effects.

The parameter β_{1s} tells us how changes in spending growth affect income growth in each sector. This provides a more precise estimate of the effect of spending growth on income growth since we also have variation in spending in each state and quarter. Our identification largely comes from states that were reached in the 2008 election but not in 2004. However, we argue that the amount spent is orthogonal to a state's economic growth, as even if a state is consistently reached (and is reached in both 2004 and 2008), there is still uncertainty about the degree of spending in each year. For example, some years provide competition between candidates in both parties, while others have competition from only one. In addition, there is large variation in the number of entrants within each party between years. At times, favored candidates do not win the early states, turning the tide of the election, thereby increasing the competitiveness. Changes in primary dates affected the spending in some states as well. For example, New York moved its primary in 2008 to an election day with other states, causing a decrease in its expenditures between the two cycles. Thus, our variation comes from states that had both increased and decreased expenditures over the two election years. Finally, we exploit variation in spending over the course of the primary election cycle, where earlier contests with more competitors tend to exhibit more spending. As in the previous section, we drop the states with early primaries (Iowa, New Hampshire, and South Carolina), which have primary elections in every year.[39]

We use quarterly data on campaign expenditures in a given state to estimate Equation (3), and are interested in the coefficient on the growth rate in expenditures, β_{1s}. In this analysis, we use data from 2003-2004 and 2007-2008. We continue to control for battleground status of the state, though we no longer control for different attributes of the primary, as the spending amounts will capture the existence of a "Super Tuesday."[40]

Table 6 reports the coefficient and standard errors for β_{1s} in Equation (3), which is

[39]If we restrict the sample further to include only the states that change primary status between the two election cycles (or only estimating the extensive margin), our results remain substantively similar, though our standard errors become slightly larger.

[40]If we additionally control for lagged spending growth or the "Super Tuesday" dummy variable, β_{1s} is not statistically different from the specification shown in Table 6.

the coefficient on the growth rate in expenditures. In order to generate results that are comparable to those found in Tables 4-5, we estimate what the increased economic growth from having a primary. To do this, we use the results from Table 3, which show that having a primary more than doubles campaign spending in a state (or over 100%). We find that campaign spending modestly increases quarterly growth, where doubling campaign expenditures between quarters results in a 0.054 percentage point increase in a state's total income from the previous quarter, adjusting for seasonal increases in income. We see the largest effects in the accommodations and retail trade sectors, where doubling expenditures results in a 0.13 and 0.061 percentage point increase in income, respectively. We find larger effects in the accommodations sector than we do for total income. Comparing these to the mean income growth rates for the time period in Table 8 in Appendix A, we find that these results are about a 35% increase in total income, making these results consistent with the previous analysis.

The results for the retail trade sector are slightly different from the previous results using a primary dummy variable, as they are now statistically different from zero. While this sector has smaller growth rates on average when compared to the other two sectors, the increased growth in the later period may in part be influenced by the many technological and startup needs of the campaign offices' expenses that happened from 2004-2008 moreso than in previous periods. In addition, given a larger effort of grass roots campaigning from 2004-2008, staffers likely spent more time in less populated areas, allowing them to promote local economies more than in the longer time period. The battleground dummies again appear to slightly decrease income growth.

Similar to the previous section, we also include state fixed effects, where the comparison now comes from changes in spending growth within the same state. This is shown in Table 14, and does not substantially change the results. In addition, we replicate the results using the primary dummy variables from the previous subsection on this subsample. These results, in Table 15 in Appendix C, are consistent with the results in Tables 4-5.

Theoretically, these expenditure results can be used to calculate a multiplier, which

would give the effect of additional spending on income levels. We expect that a multiplier effect will exist if service sector employees are receiving higher wages and exuding higher levels of spending. For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdresser more. This money will continue to circulate in the state's economy. Calculating this multiplier would provide a comparison to the traditional literature on fiscal stimulus multipliers, given that this multiplier would reflect previously unstudied sectors. However, we do not have a complete measure of the amount spent during primary campaigns. Our measure of spending is a lower bound on the actual amount of additional spending brought forth by a Presidential primary campaign, and does not include spending by the media, individual spending by staffers, or the additional expenditures put forth by a state's residents in order to engage in campaign events. For simplicity, we will refer to these additional expenses as "media spending" for the remainder of the discussion. This mis-measurement of total spending makes it hard to calculate accurate multipliers.

We assume that media spending and our expenditure values are highly correlated,[41] which implies that our estimate of β_{1s} will not be biased. However, this makes it difficult to estimate the multiplier. The multiplier tells us how much total income would grow with an additional \$1 of spending. In our setup, an additional \$1 of primary spending does not just account for a \$1 increase in spending, as it would also be associated with an increase in media spending. Because we do not have an accurate measure of media spending, we are uncertain of the degree to which media spending would increase, and therefore cannot calculate an accurate multiplier. This argument implies that multipliers would be (and are) unreasonably large (just over 10). When we instead run simulations varying the amount of media spending, between 50% and 100% of our expenditure values, our estimates of β_{1s} remain statistically equivalent to the previous estimates. This simulation also produces lower and reasonable multiplier estimates within ranges of media spending

[41]We think this is a valid assumption since a race with greater primary spending may have more electoral votes and garner more media attention. Also, like candidates, networks are constrained if many contests occur on the same day and have to spend less covering each given state.

between 50% and 100% of total campaign spending (between 2 and 3.5). The biggest difference between our work and the traditional public finance literature looking at local multipliers is the lack of public investment spending in this paper.

5 Where is the Money Coming from?

A discussion of the economic benefit of primaries would be incomplete without considering the sources of these funds. In particular, concern may arise that campaign contributions from individuals within a state are approximately equal to campaign spending in that same state. If, for example, Iowa residents are contributing at a higher rate than the rest of the country (especially at the time of the primary), funds may simply be moving amongst Iowa citizens.

Campaign spending differs from traditional government spending because campaigns are financed through three sources: individual level contributions, federal matching funds, and Political Action Committee (PAC) contributions. Individual level contributions in presidential races are generally considered consumption goods, where an individual donates to a campaign if it increases his/her utility (Ansolabehere et al. 2003). Thus, individuals who enjoy following politics, as well as those with more resources, tend to contribute more money to candidates and do this more frequently (Brady et al. 1995). While we do not precisely know the counterfactual, we postulate that this money would not be spent in the absence of primaries, as those who contribute in primaries tend to be more high-income individuals whose budgets allow for some flexibility in spending. However, we cannot fully assess the value of individuals' participation in the process, where they give their time, or small dollar donations to the campaign. These resources would likely be reallocated in the absence of the race. An additional source of "individual" funds, which are less frequently utilized in primary races, is a candidate's personal expenditures, which likely would not be spent to the same extent in the absence of a race and are a direct transfer to individuals in the service sector of states with a high degree

of campaigning.

Second, partial public funding is available to Presidential primary candidates in the form of matching payments of up to $250 per individual contribution.[42] To obtain these funds, candidates must become eligible and limit themselves to spending caps.[43] Again, these funds differ from the traditional federal spending in that they are not targeted at aiming an impoverished area, but instead are entrusted to viable Presidential candidates with intentions of getting out their messages to help voters make an informed decision. There has been little variation in the total federal funds allocated for Presidential primary contests over our full sample period (1976-2008), and this money can be seen as a transfer from all taxpayers to those receiving campaigning.

Third, candidates receive money from PACs. While PAC contributions have increased significantly since 1976 (FEC 2010),[44] candidates still receive most of their money during the primary from individuals and matching funds. This is because partisan PACs generally wait until a candidate has clinched the nomination to stand behind him. In 2008, candidates raised a total of $534 million from individuals, $63 million from PACs, and $21 million from federal matching funds. Similarly, in 2004, candidates raised $130 million from individual contributors, $10 million from PACs, and $27 from federal funds.[45]

Recognizing that the majority of campaign spending comes from individuals, we analyze the geographic sources of the donations in Figures 6 - 7 for 2004 and 2008, respectively. We construct a measure, entitled Campaign Ratio, by dividing total campaign-related expenses (i.e., money spent specifically on the travel-related activities for campaigning, not on ads, media, consultants, etc.) in a given state by that state's total individual-level campaign contributions. Thus, the greater the measure, the more relative money that is coming from out of state than being spent in state.

[42]Variation in total federal funding will come via the number of contributions as well as the number of candidates raising the threshold amount to begin collecting federal dollars within each primary cycle.

[43]See `www.fec.gov` for more on these rules.

[44]Also, see the CRP `http://www.opensecrets.org/pres08/totals.php?cycle=2008` for more trends on giving and expenditures.

[45]Calculations based on Federal Election Commission data on Presidential candidates' primary fundraising.

In Figure 6, we see that in early states like Iowa, New Hampshire, South Carolina, Missouri, Arkansas, and Virginia, there is the greatest ratio of spending to contributions. States like Texas, Washington, and California had some of the lowest ratios in 2004, meaning that residents were contributing more money than was being spent in the state on campaigns. Similarly, Figure 7 shows that Iowa, New Hampshire, Wisconsin, Missouri and Iowa have the highest amount of money spent on primary campaign expenditures, compared to he total contributions by state residents. However, South Carolina and Kansas still saw more money spent in their states than what their residents contributed. In general, what we see is a transfer of funds from individuals in some states with many contributors to states early in the primary process, or on days with their own contest. These figures imply that the money being spent during primaries is mostly coming from outside the state.[46]

6 Conclusion

This paper takes a traditional public finance and macroeconomics question, asking how government spending affects local economies, and looks at primary campaign spending as an exogenous shock to previously unstudied sectors of a state's economy. We find that this money modestly increases income growth in a state. Specifically, the service sectors see the largest effects, where the accommodations sector seems to be the main source of this finding.

While other papers have investigated the ability of early primaries to influence policy, as candidate's attempt to appease early state's preferences in order to clench the nomination early (Malhotra and Snowberg 2011), our paper is the first to show the economic value of hosting a primary race. We also find that when there are few candidates in the race, it is more valuable to have a primary race that occurs independently of other states, making a Super Tuesday primary less valuable in terms of spending and economic

[46]Again, we do not look at small donations or within-state volunteering as inputs.

growth. This paper provides additional incentives for states to move their primaries up in the ordering, though to do so strategically.

Additionally, this paper provides a new insight on fiscal stimulus. While previous work has established a link between government spending and increases in employment, earnings, and income, this paper asserts that additional spending in states' service sectors provide short-run increases to personal earnings on the intensive margin. Thus, when individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur). A federal re-ordering of the primary calendar may best be structured to help states with struggling service sectors.

As policymakers continue to reform campaign finance legislation, they should consider the potential positive effects, though short-run and sector-specific, that can ensue from campaign spending in states.

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Figures

Figure 1: Number of primaries over time

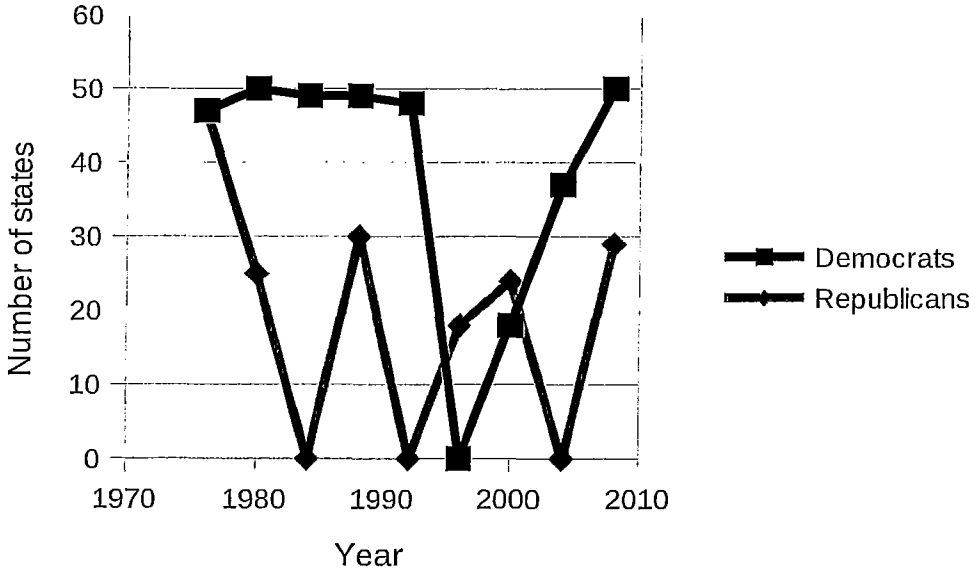


Figure 2: Primary Length and GDP

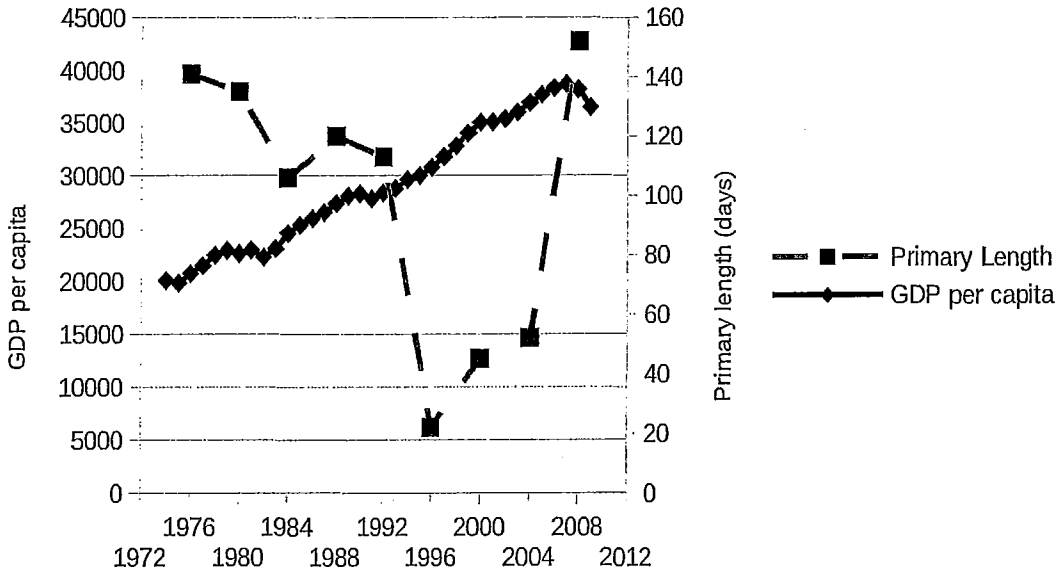


Figure 3: States that switch primary dates and GDP

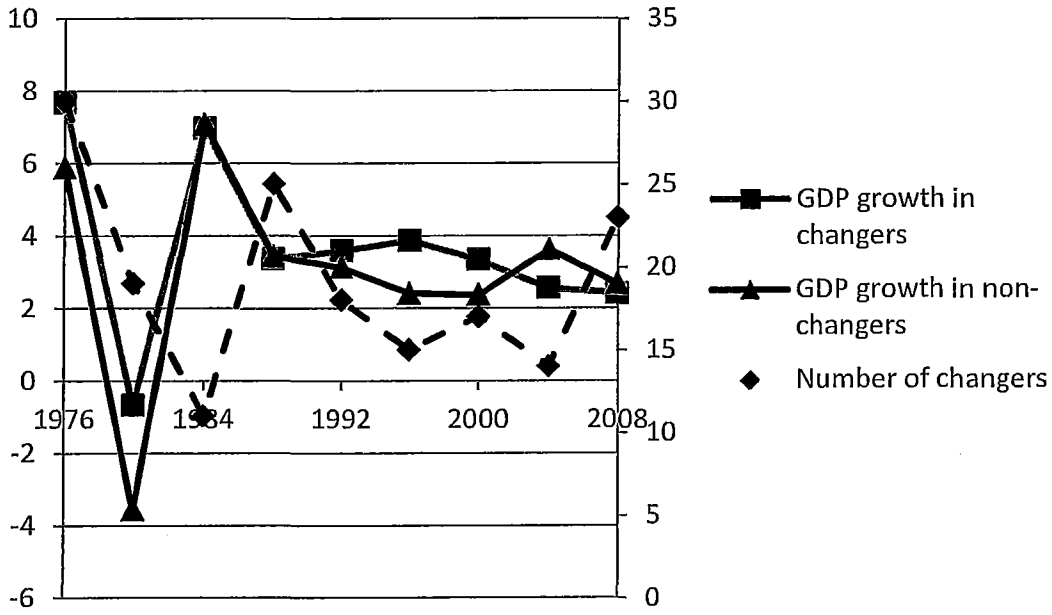


Figure 4: Primary Status Between 2004 and 2008

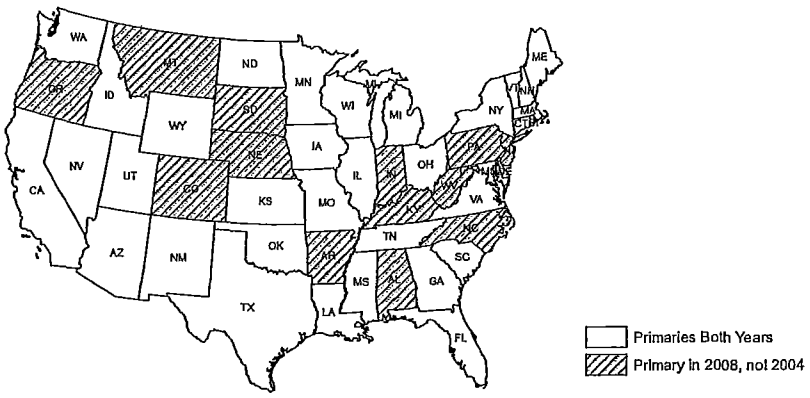


Figure 5: Changes in Expenditures from 2004-2008

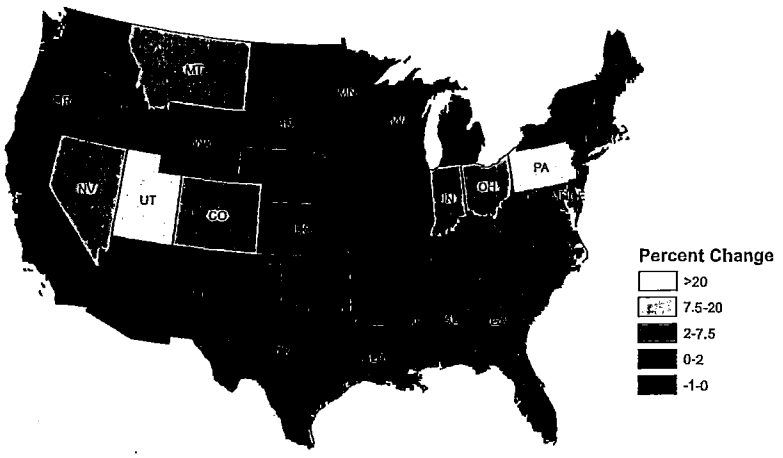


Figure 6: Campaign Expenditures and Contributions in 2004

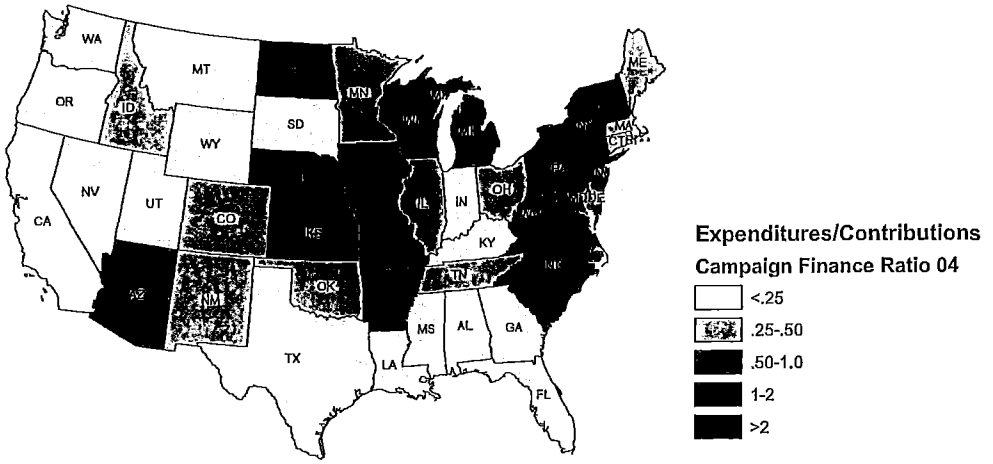
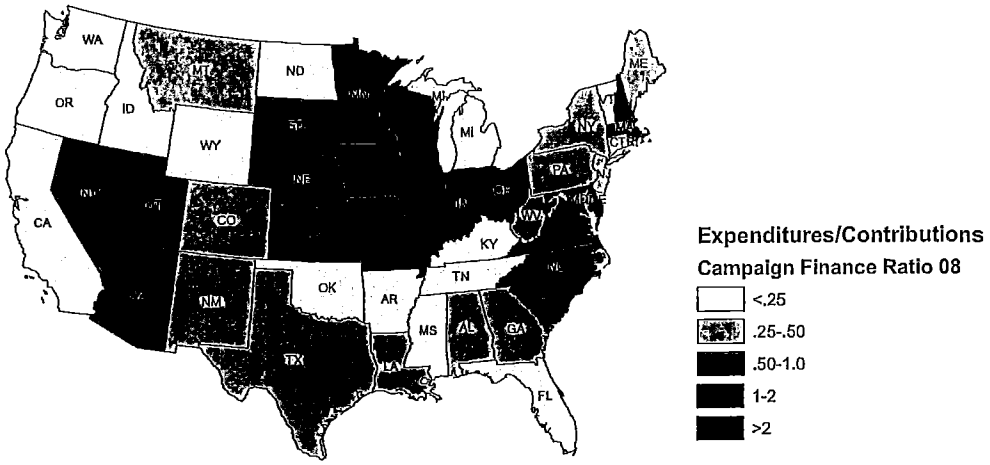


Figure 7: Campaign Expenditures and Contributions in 2008



Tables

Table 1: Dates when only one candidate remains by party

	Republicans		Democrats	
	Date Clinched	Nominee	Date Clinched	Nominee
1976	8 June	Gerald Ford	8 June	Jimmy Carter
1980	1 May	Ronald Reagan	4 June	Jimmy Carter
1984	No Contest	Ronald Reagan	5 June	Walter Mondale
1988	15 March	George H.W. Bush	7 June	Michael Dukakis
1992	No Contest	George H.W. Bush	2 June	Bill Clinton
1996	5 March	Bob Dole	No Contest	Bill Clinton
2000	9 March	George W. Bush	9 March	Al Gore
2004	No Contest	George W. Bush	11 March	John Kerry
2008	4 March	John McCain	3 June	Barack Obama

Notes: President Carter had a very low approval rating and was forced by the DNC to run in the primary in 1980. No Contest means that there were no contenders against the incumbent president.

Table 2: Spending by Primary Existence

Primary Status	Total Spending	Campaign Spending
Primary in current quarter		
Average	1,507,529	703,237
Median	423,584	222,641
25th Percentile	86,755	55,653
75th Percentile	1,487,526	721,901
Observations	89	89
Primary in next quarter		
Average	1,733,553	638,328
Median	276,206	138,157
25th Percentile	33,115	27,522
75th Percentile	1,336,009	679,948
Observations	89	89
No primary		
Average	861,762	372,993
Median	99,962	35,286
25th Percentile	16,191	4,207
75th Percentile	533,750	255,636
Observations	624	624

Total Spending includes all money spent by campaigns (in $s).
Campaign Spending removes ad and media expenditures from Total Spending.
Compares quarter/states with and without primary elections
in 2003-2004, 2007-2008.

Table 3: Primary Existence Predicts Primary Campaign Expenditures

Dependent Variable=Spending Growth		
	(1)	(2)
Primary	1.128***	1.218***
	(0.281)	(0.335)
Primary on Super Tuesday	-0.481	-0.693*
	(0.341)	(0.392)
Battleground State	-1.500***	-1.688***
	(0.222)	(0.229)
Observations	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. Column (2) includes state fixed effects.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 4: Primary Elections Increase Income Growth

Dependent Variable=Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00525***	0.00761***	0.00473**	0.000798
	(0.000678)	(0.000958)	(0.00227)	(0.000970)
Primary on Super Tuesday	-0.00399**	-0.0140***	-0.0146***	-0.00746**
	(0.00188)	(0.00316)	(0.00486)	(0.00294)
Battleground state	0.000202	-0.000194	-0.00214*	0.000474
	(0.000576)	(0.000842)	(0.00125)	(0.000736)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 5: Primary Elections Increase Income Growth (state fixed effects)

Dependent Variable = Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00528***	0.00764***	0.00497**	0.000833
	(0.000492)	(0.000635)	(0.00215)	(0.000679)
Primary on Super Tuesday	-0.00401*	-0.0137***	-0.0153***	-0.00771**
	(0.00210)	(0.00295)	(0.00400)	(0.00303)
Battleground state	0.000378	-0.000154	-0.00188*	0.000531
	(0.000509)	(0.000849)	(0.00107)	(0.000642)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 6: Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000541***	0.00134***	0.000606***
	(0.000155)	(0.000259)	(0.000215)
Battleground	0.000768	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses.
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 7: Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000520***	0.00128***	0.000586***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000222	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies and state fixed effects.

State-quarter observations. Drops IA, NH, SC.

Appendix A: Data Appendix

Table 8: Summary Statistics

	Mean	Standard deviation	Minimum	Maximum
Full Sample				
Income growth	0.0128	0.0147	-0.1020	0.1833
Services income growth	0.0209	0.0171	-0.2070	0.3299
Accommodations income growth	0.0107	0.0237	-0.4903	0.3630
Retail trade income growth	0.0110	0.0173	-0.2736	0.2800
Primary dummy	0.1011	0.3015	0	1
Super Tuesday dummy	0.0146	0.1200	0	1
Battleground dummy	0.0984	0.2978	0	1
Only for election years				
Primary dummy	0.4156	0.4930	0	1
Super Tuesday dummy	0.0600	0.2376	0	1
Battleground dummy	0.4044	0.4909	0	1
2004-2008 Sample Only				
Income growth	0.0143	0.0284	-0.0443	0.2404
Accommodations income growth	0.0110	0.0294	-0.0752	0.2158
Retail trade income growth	0.0031	0.0222	-0.0857	0.1458
Campaign spending growth	-0.4350	3.0736	-12.0499	9.3338
Campaign spending growth*	0.4401	1.7784	-8.8538	8.8708
Campaign spending growth**	-0.7289	3.3502	-12.0499	9.3338
Battleground Dummy	0.2475	0.4318	0	1
Super Tuesday dummy	0.0437	0.2047	0	1
Only for election years				
Battleground dummy	0.4950	0.5006	0	1
Super Tuesday dummy	0.0875	0.2829	0	1

* Includes only periods with primaries.

** Includes only periods without primaries.

Table 9: Variables Collected

Variable	Measured	Years	Source
Primary Dates	Date each Presidential primary was held, by state and party	1976-2008	Green Papers (for primaries) Frontloading HQ (for caucuses)
Clinch Dates	Date Presidential candidate was last remaining in contest for party nomination	1976-2008	Various sources
Battleground States	Competitive States in election based on polls (< 10 perecentage points between winner and loser)	1996-2008	Intrade Prediction markets, David Leip's Polling Report
	Competitive states in election based on ex-post results (< 10 perecentage points between winner and loser)	1976-1992	David Leip's Election Results
Income	Quarterly state earnings	1974-2008	Bureau of Economic Analysis (BEA)
Services Income	Quarterly state earnings in the "service" sector	1974-2001	BEA
Accommodations Income	Quarterly state earnings in the accommodations sector	1990-2008	BEA
Retail Income	Quarterly state earnings in the retail sector	1990-2008	BEA
Population	Annual state population interpolated by quarter	1974-2008	Census
GDP	Annual state GDP	1974-2008	BEA
Unemployment	Annual state unemployment rate	1974-2008	BLS
Campaign expenditures	All expenses by Presidential primary candidates spent in pursuit of the primary race Includes: administrative and campain expenses, i.e. hotel rooms, meals, local polling, Get-out-the-Vote, campaign events, money spent by staffers for catering meetings, rent, utilities, cable, internet, administrative supplies, staffer travel. Does not include advertisements	2004-2008	Center for Responsive Politics

Table 10: Variables Measured

Variable	Measured
Primary Dummy	Dummy Variable = 1 if there was a primary in state i in quarter t or $t+1$ based on state primary dates and clinch dates
Battleground States	Dummy Variable=1 if state i was competitive in election year, and primary nomination clinched for at least one party at time t
Primary on Super Tuesday	Dummy Variable=1 if state i had primary at time t and that day had the highest number of primary elections during that cycle
Per Capita Income Growth	$log\left(\frac{\text{Income}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Income}_{t-1}}{\text{Population}_{t-1}}\right)$
Per Capita Services Income Growth	Same as income, but only for 1974-2001
Per Capita Accommodations Income Growth	Same as income, but only for 1990-2008
Per Capita Retail Income Growth	Same as income, but only for 1990-2008
Population	Annual population data, by state (interpolated by quarter)
Spending Growth	$log(\text{Spending}_t) - \log(\text{Spending}_{t-1})$
Per Capita Spending Growth	$log\left(\frac{\text{Spending}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Spending}_{t-1}}{\text{Population}_{t-1}}\right)$

Appendix B: Election Information

Table 11: Battleground states by year

Alabama	1980, 1992, 1996
Alaska	1992
Arizona	1992, 1996, 2000, 2008
Arkansas	1980, 2000, 2004
California	1976, 1988
Colorado	1968, 1988, 1992, 1996, 2000, 2004, 2008
Connecticut	1980, 1992, 1996, 2008
Delaware	1976, 1980, 1992, 2004
Florida	1976, 1992, 1996, 2000, 2004, 2008
Georgia	1992, 1996, 2008
Hawaii	1976, 1980, 1988, 2004
Illinois	1976, 1980, 1988
Indiana	1976, 1992, 1996, 2008
Iowa	1984, 1992, 2000, 2004, 2008
Kansas	1976, 1992
Kentucky	1976, 1980, 1992, 1996
Louisiana	1976, 1980, 1992, 2000
Maine	1980, 1992, 2000, 2004
Maryland	1976, 1980, 1984, 1988
Massachusetts	1980, 1984, 1988
Michigan	1976, 1980, 1988, 1992, 2000, 2004
Minnesota	1980, 1984, 1988, 2000, 2004
Mississippi	1976, 1980, 1992, 1996
Missouri	1968, 1976, 1980, 1988, 1996, 2000, 2004, 2008
Montana	1980, 1988, 1992, 1996, 2008
Nevada	1976, 1992, 1996, 2000, 2004
New Hampshire	1992, 1996, 2000, 2004, 2008
New Jersey	1976, 1992, 2004
New Mexico	1976, 1988, 1992, 1996, 2000, 2004
New York	1976, 1980, 1984, 1988
North Carolina	1980, 1992, 1996, 2008
North Dakota	1976, 1996, 2008
Ohio	1968, 1976, 1992, 1996, 2000, 2004, 2008
Oklahoma	1976, 1992, 1996
Oregon	1968, 1976, 1980, 1988, 1992, 1996, 2000, 2004
Pennsylvania	1968, 1976, 1980, 1984, 1988, 1992, 2000
Rhode Island	1984
South Carolina	1980, 1992, 1996, 2008
South Dakota	1976, 1988, 1992, 1996, 2008
Tennessee	1980, 1992, 1996, 2000
Texas	1976, 1992, 1996
Vermont	1980, 1988, 2000
Virginia	1976, 1992, 1996, 2000, 2004, 2008
Washington	1976, 1988, 2000, 2004
West Virginia	1980, 1988, 2000
Wisconsin	1968, 1972, 1976, 1980, 1984, 1988, 1992, 2000
Wyoming	1992

Table 12: Super Tuesday states by year

Alabama	1980, 1984, 1988, 2008
Alaska	1980, 2008
Arizona	2008
Arkansas	1976, 1988, 2008
California	2000, 2004, 2008
Colorado	1996
Connecticut	1996, 2000, 2004, 2008
Delaware	1992, 2008
Florida	1980, 1984, 1988, 1992
Georgia	1980, 1984, 1988, 1996, 2000, 2004, 2008
Hawaii	1980, 1984, 1988, 2000
Idaho	1976, 2008
Illinois	2008
Kansas	1988, 2008
Kentucky	1976, 1988
Louisiana	1992
Maine	1996, 2000
Maryland	1988, 1996, 2000, 2004
Massachusetts	1984, 1988, 1996, 2000, 2004, 2008
Minnesota	1996, 2000, 2004, 2008
Missouri	1988, 1992, 1996, 2000, 2008
Montana	2008
Nevada	1976, 1984, 1988
New Jersey	2008
New Mexico	2008
New York	2000, 2004, 2008
North Carolina	1988
North Dakota	2000, 2004, 2008
Ohio	2000, 2004
Oklahoma	1980, 1984, 1988, 1992, 2008
Oregon	1976
Rhode Island	1984, 1988, 1992, 1996, 2000, 2004
Tennessee	1976, 1988, 1992, 2008
Texas	1988, 1992
Utah	2008
Vermont	1996, 2000, 2004
Virginia	1988
Washington	1980, 1984, 1988, 2004
West Virginia	2007

Appendix C: Robustness

Table 13: Per Capita Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000542***	0.00134***	0.000607***
	(0.000155)	(0.000259)	(0.000215)
Battleground State	0.000769	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 14: Per Capita Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000521***	0.00128***	0.000587***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000223	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects.
State-quarter observations. Drops IA, NH, SC.

Table 15: Results are robust restricting sample to 2004 and 2008 expenditures sample

	(1) Income	(2) Accom.	(3) Retail
Primary	0.00734***	0.0131***	0.00680***
	(0.00162)	(0.00273)	(0.00196)
Primary on Super Tuesday	-0.000656	-0.00935**	-0.00731*
	(0.00301)	(0.00443)	(0.00438)
Battleground State	-0.000263	-0.0114***	-0.00411***
	(0.00123)	(0.00188)	(0.00147)
Observations	658	658	658

Robust standard errors in parentheses

Includes quarter dummies

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

CHAPTER 23: EXPENDITURE MULTIPLIER

Consumption and Savings Function:

- Consumption is primarily a function of Yd (disposable income) or "after-tax" income. Although it is also influenced by the rate of interest, expectations about future Yd, wealth effects etc.
- if plot Consumption as a function of Yd it will have a positive vertical intercept ('autonomous consumption') and a positive slope but less than one (i.e, the slope of the consumption function is the coefficient on Yd in the Consumption equation and represents the Marginal Propensity to Consume (MPC). Therefore, $0<MPC<1$
- if plot the consumption function versus a 45 degree line (with the mathematical property that any point on the 45 degree line has the same vertical coordinate as horizontal coordinate, or $x = y$) then where Consumption intersects the 45 degree line is referred to as "breakeven level of Yd".
- at $Yd < Yd$ breakeven, then $C > Yd$ (the individual is 'dissaving' as savings <0)
- at $Yd > Yd$ breakeven, then $C < Yd$ and the individual is "saving", Savings >0.
- the Savings function is derived from the consumption function (if the consumption function changes then so does the savings function). For example, if

  $C = a + b(Y - T)$ where $a>0$, $0<b<1$ and $Yd= Y-T$

  then the implied savings function is:

  $S = -a + (1-b)(Y - T)$ where $(1-b)$ = MPS (marginal propensity to save)

Note: $MPC + MPS = 1$

- Mathematical example:

  if $C = 1000 + 0.80(Y - T)$ then the implied savings function is:

  $S = -1000 + 0.20(Y - T)$

where MPC = 0.80 and MPS = 0.20. See the graphs pg. 529

Effects of other variables on Consumption function:

- if the interest rate falls or expected future disposable income increases, then the consumption function shifts upwards and the implied savings function shifts downwards (see pg. 531)

Other Components of Aggregate Expenditure (AE):

i) Investment function:

- depends on interest rate, expected future profits. Not related to current GDP or Yd. Therefore, if we plot the investment function in diagram with Investment expenditures on the vertical axis and real GDP on the horizontal axis, the Investment (I) line is horizontal at I_0. That is, we assume that:

  $I = I_0$.

ii) Government expenditures:

- changes in government expenditures (G) or taxes (T) represents a "fiscal policy" decision of the federal government. Therefore, a change in G is a policy choice and does not respond automatically to the level of GDP (Y). So in a diagram, G is also assumed to be autonomous,

  $G = G_0$.

iii) Exports:

- exports represent Canadian goods sold abroad. The level of exports will depend primarily on the Canadian price level (P), foreign price level (Pf), the exchange rate (E) and foreign GDP (Yf). Therefore, once again, X does not respond to the level of Canadian GDP so exports are

autonomous.

$$X = X_0.$$

iv) Imports:

- depends on relative prices (Canadian and foreign prices), the exchange rate (E), and Canadian GDP (Y). As GDP (Y) increases, we buy more goods and services and some of these will be imported from the rest of the world. Therefore,

  Imports (M) = m Y where $0<m<1$ and m=MPM (marginal propensity to import)

Aggregate Expenditure function (AE):

- will have a positive intercept (see graph pg. 534)
- the slope of the AE function is given by:
  - slope of AE = MPC (1-t) - MPM where $0<t<1$ and t represents the tax **rate**
- Note if we have lump sum taxes, T = To (a constant) then t=0 and the slope of the AE function is just = MPC - MPM

- Numerical Example:

  If MPC = 0.80, MPM = 0.10 and t = 0.25 then the slope of the AE function is:
  slope of AE = 0.80 (1 - 0.25) - 0.10
  slope of AE = 0.50

Equilibrium GDP (Y):

- when AE = Y (planned spending = production) we have an equilibrium
- graphically this occurs anywhere along the 45 degree line with AE on the vertical axis and real GDP (Y) on the horizontal axis. Specifically, the equilibrium is where the given AE function intersects the 45 degree line. (see pg. 536)

Calculation of Equilibrium GDP (Y):

- Suppose you are given the following equations:

  C = 1000 + 0.80 (Y- T)
  I = 180
  G = 100
  X = 200
  M = 0.20 Y
  T = 100

- To find equilibrium GDP, follow these steps:
- **Step 1**: Calculate the AE equation by adding C, I G, X and M together and substitute the T value into the consumption equation

  AE = C + I + G + X - M
  so AE = 1000 + 0.80(Y -100) + 180 + 100 + 200 - 0.20 Y
  or AE = 1400 + 0.60 Y

-**Step 2:** Impose the equilibrium condition, AE = Y

  so 1400 + 0.60 Y = Y

and since the equilibrium condition has been imposed, the value of Y solved for is then equilibrium Y.

- **Step 3:** Solve for equilibrium GDP
  0.40 Y = 1400
  so Y = 3500

The Multiplier:

- the definition of the multiplier is: multiplier = $\frac{\text{change in equilibrium Y}}{\text{change in autonomous spending}}$

- the formula for the expenditure multiplier is: multiplier = $\frac{1}{1 - \text{slope of AE function}}$

Example: If the MPC = 0.80, t = 0, and MPM = 0.05 then
the slope of the AE function is = 0.75 and the multiplier is = 4
Therefore, for everyone $1 increase in spending (whether it be from C, I, G, X) it will generate a $4 increase in equilibrium GDP.

- continuing the example from above where equilibrium Y = 3500, if full employment GDP (Y*) = 4300 then in order to get to full employment GDP the government could increase its spending by 200 (once subject to the multiplier, the overall increase in GDP is going to be $800 bringing the new equilibrium GDP level to $4300 (=Y*)

The Lump sum Tax multiplier:

- if the government has a lump sum tax (so the tax rate, t = 0),then a $1 increase in taxes would reduce Consumption expenditures by the value of the MPC (eg 0.80). This reduction in expenditures is then subject to the multiplier. The end result is that when taxes (T) change, equilibrium GDP changes according to the value of the tax multiplier,
- definition of the tax multiplier: tax multiplier = $\frac{-\text{MPC}}{1 - \text{slope of the AE function}}$

Example:
If the MPC = 0.80, t = 0 and MPM = 0.05 then the tax multiplier is:

$$\text{tax multiplier} = \frac{-0.80}{1 - 0.75}$$

then the tax multiplier is -3.2
The tax multiplier is always a negative number because from the definition of the tax multiplier above, we know that if taxes increase (decrease), then real GDP will decrease (increase) so the tax multiplier is negative.

- you use the tax multiplier to determine the required change in taxes to bring about full employment GDP. Suppose again that Y (eq'l) = 3500 and Y* = 4300 and the tax multiplier is -3.2

then from the definition of the tax multiplier:

$$\text{tax multiplier} = \frac{\text{change in equilibrium GDP}}{\text{change in taxes (lump sum)}}$$

so if the tax multiplier is -3.2 and to get to full employment GDP we want the change in equilibrium GDP to be +$800, then the change in taxes should be = 800/-3.2 or = -$250

The Multiplier and the Price Level:

- n the price level (P) was held constant in deriving the AE function. Therefore, if the price level changes it will shift the AE curve (due to the wealth effect and the substitution effects, see page 543).
- n specifically, if the price level increases, AE shifts down (the increase in price reduces real wealth and encourages international and intertemporal substitution so consumption expenditures decrease and imports increase lowering equilibrium GDP). See graphs on page 544.

Derivation of the AD curve:

- n can derive the AD curve (from chapter 22) by changing the price level and tracing out what happens to equilibrium GDP following the shift in the AE curve. See page 544.
- n we can also trace out the effects of changes in other variables (eg changes in the interest rate or exchange rate etc) on the AD curve itself. See page 545. If the AE curve shifts upwards due to any effect but a change in price, then the AD curve will shift in response. See page 545.

Note: you should read over the Appendix to Chapter 23 (the mathematical note at the end of the chapter).

The State Auditor's office did not receive a response from the **Department of Labor and Industrial Relations,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate increased annual operating costs starting at about $67,000. Local governmental entities estimate no impact to operating costs. Any potential impact to state and local governmental revenues is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-055)

Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received November 4, 2013)

Date

November 25, 2013

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

Marc Ellinger provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Higher Education** indicated they have determined the estimated cost or savings are zero to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department due to this initiative petition.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal has no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

This specific petition prohibits the counting of an otherwise genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter. These signatures are still subject to the other

requirements set forth in Chapter 116 that require a certain form of the petition itself and that set forth submission procedures for the petition (i.e. pages are submitted all at one time, in order, and numbered sequentially by county and every page has the full text of the proposed measure attached). The signature pages of the petition also are required to be submitted in the approved form of the sample petition. Additionally, it is assumed that the "genuine signature" language used in the petition will prohibit the counting of signatures that the registered voter does not personally sign, including certain electronic signatures. This assumption is consistent with the requirements of Section 116.130, RSMo, in checking signatures against voter registration records and continuing the current process of signature verification.

Due to these other restrictions and the above assumptions, there should be no significant costs or savings other than the stated publication costs.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Cole County** indicated they anticipate a drop in sales tax revenues due to Section 16(a), which severely limits, and drastically reduces from current levels, lobbyist expenditures to Missouri legislators. Attached is printout from a website containing a November 1, 2013 report compiled by St. Louis Public Radio and National Public Radio that lists lobbyist expenditures in Missouri. For the previous 24-month period, Missouri lobbyists spent $1,865,960.00. Because the State Capitol is in Cole County, it would be reasonable to assume that a substantial portion of this amount was spent on goods and services in Cole County. Eliminating these expenditures would result in a loss of sales tax dollars to the county. Also lost would likely be the jobs of employees in those industries providing goods and services for lobbyist activities and expenditures or possibly the closing of those businesses altogether, which both would reduce even more sales tax revenues in the county.

Lobbying Missouri

A reporting partnership with npr

by DANNY DEBELIUS, CHRIS GROSKOPF, CHRISTOPHER McDANIEL and MATT STILES

November 1, 2013

Companies and other organizations with an interest in Missouri state government hire lobbyists to influence policy in Jefferson City. State law requires lobbyists to disclose how much they spend in the process, listing which officials received benefits, such as free meals, professional sports tickets, trips and other gifts. Try searching for your legislators below, then read our stories on the issue. You can also learn more about how we built this site or download all the data.

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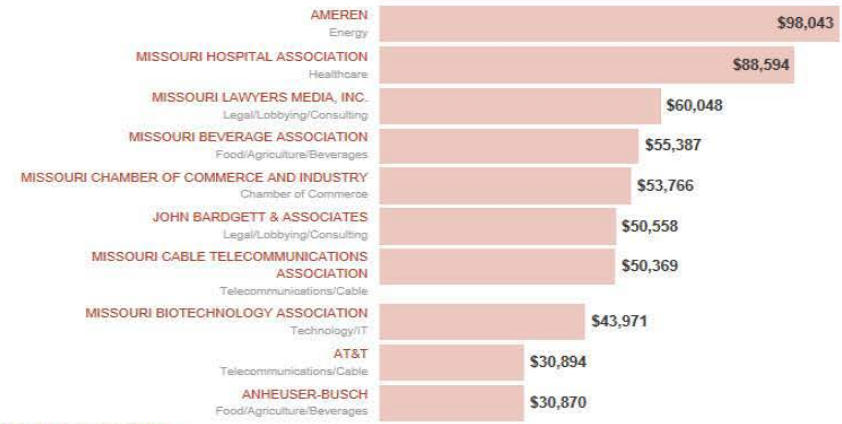
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Within the last 24 months*

SPENT	GIFTS GIVEN	ORGANIZATIONS LOBBYING	LOBBYISTS ACTIVE
$1,865,960	20,681	549	409

Organizations spending the most



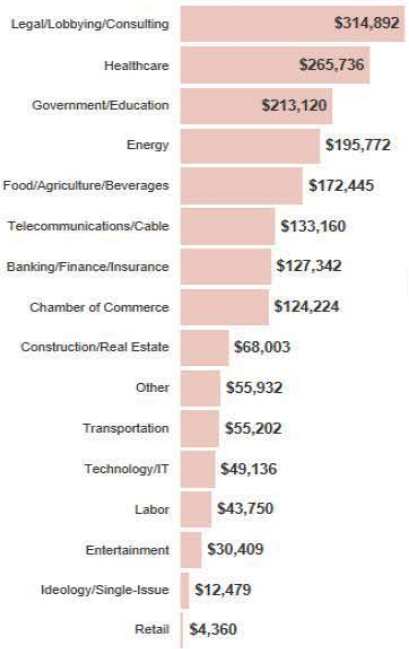
View all organizations »

Legislators receiving the most



View all legislators »

Spending by industry



* The state releases data two months after lobbyists submit it, and our numbers reflect the last 24 months on record.

Officials from **Greene County** indicated they do not believe this initiative petition will have a significant impact on their county.

Officials from the **City of Columbia** indicated no fiscal impact on their city.

Officials from the **City of Jefferson** previously responded to this fiscal note request stating that there would be no fiscal impact to the city. However, upon further review, several parts of the petition did not load correctly and were not reviewed. Based on that subsequent review they would like to amend their answer to the following:

It is anticipated that Section 16(a) would have a negative fiscal impact on Jefferson City. As Jefferson City is the State Capitol of Missouri, it is expected that a significant portion of the funds at issue in this section are spent in Jefferson City. Based on that, it is anticipated that if the limit proposed in this section were to be enacted there would be a decrease in sales tax resulting in a negative fiscal impact to Jefferson City.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Kirkwood** indicated there is no anticipated fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this would have no financial impact on their city.

Officials from **Cape Girardeau 63 School District** indicated they do not believe there would be any cost or savings to their school district as a result of this petition.

Officials from the **Missouri Ethics Commission** indicated the costs related to the proposed legislation are not inclusive in our current budget.

The total estimated costs on all state funds is $67,392 for FY 2014, $61,004 for FY 2015, and $61,629 for FY 2016.

The proposed language is a Constitutional amendment and does not explicitly provide enforcement powers to the Missouri Ethics Commission. Any enforcement would be provided through existing statutory authority to receive complaints or to conduct audits. Any additional enforcement powers would require enabling language to be passed in Chapter 105 and/or Chapter 130 to provide the necessary specific authority for enforcement. Below is the affect the proposed language would have on our agency.

Prohibiting a member of the general assembly and their employees/staff from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly and their employees/staff from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130 or for any campaign issue

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or their employees or staff to accept lobbyist/lobbyist principal gifts in excess of $5.00 would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

The proposed language is a Constitutional amendment and does not explicitly provide enforcement powers to the Missouri Ethics Commission. Any enforcement would be provided through existing statutory authority to receive complaints or to conduct audits. Any additional enforcement powers would require enabling language to be passed in Chapter 105 and/or Chapter 130 to provide the necessary specific authority for

enforcement. Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo. about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

The proposed language is a Constitutional amendment and does not explicitly provide enforcement powers to the Missouri Ethics Commission. Any enforcement would be provided through existing statutory authority to receive complaints or to conduct audits. Any additional enforcement powers would require enabling language to be passed in Chapter 105 and/or Chapter 130 to provide the necessary specific authority for enforcement. Below is the fiscal impact on our agency in conjunction with the proposed language.

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed language includes a prohibition of a member of the general assembly and their employees/staff from becoming a lobbyist for a specified period of time, accepting or receiving compensation of any as a paid political consultant and a prohibition accepting a lobbyist gift in excess of $5.00.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The proposed legislation also includes the implementation of campaign finance contribution limits for state senate or state representative candidates. The implementation of the responsibilities associated to the implementation of contribution limits would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo. Current campaign finance data collection would allow the

MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

- 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.
- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill may require additional associated costs for FTE, equipment, and expenses.

Marc Ellinger provided the following information as an opponent of this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Brad Ketcher on November 4, 2013.

In 2012, the State Auditor's Office issued a Fiscal Note (11-35) for an initiative that limited campaign contributions. In that fiscal note, both the Department of Revenue and the Missouri Ethics Commission indicated there would be additional costs to their departments. The Auditor's Office issued the following Fiscal Note Summary:

> It is estimated this proposal will increase state government costs by at least $127,000 annually and result in one-time costs of about $28,000. Any potential impact to state government revenue could not be determined. It is estimated this proposal will have no costs or savings to local governments.

This fiscal note summary vastly underestimates the costs to state and local governments as a result of the proposed measure. We urge you to adopt a different fiscal note for this proposed measure on the basis of the data you will find herein. Not only will there be direct costs to state agencies as indicated in Fiscal Note 11-35 but there will be widespread effects on the Missouri economy. Each election cycle, candidates spend millions of dollars in Missouri. Limiting the total amount of contributions will limit the total amount of money candidates will raise, and therefore will decrease the amount of campaign spending in Missouri. Currently candidates spend thousands of dollars on payroll for campaign workers, thousands of dollars in payroll and income taxes paid directly to the State of Missouri, they spend money for lodging and food at local Missouri businesses, their media purchases support Missouri media companies, and they purchase printing, supplies, utilities, and more in Missouri. Not only do many of these expenditures directly yield state and local tax revenues, but through the multiplier effect, these dollars are spent and re-spent within our state and local economies. Limiting campaign

contributions would significantly reduce campaign spending in Missouri and have a serious negative fiscal impact to both the state and local governments.

Economic Impact of Campaign Spending

To date, there has not been a comprehensive study regarding the fiscal impact of state elections on Missouri state and local governments. However, there is research on the fiscal impact of election spending. One such study sought to determine how campaign spending affects earnings in service sectors.[1] More specifically, the study sought to determine how income growth is affected by the presence of a primary.

The study concluded that the presence of the primary not only increases overall income, but also income in service-related sectors. The authors found a 41% increase in quarterly income growth rate in quarters where there is primary spending.

The authors point out that states with primaries tend to see between $500,000 and $19 million in spending during an election cycle, which is enough to "modestly boost local income growth." Primary spending increases total income growth by 0.53 percentage points. The effect is higher in the services sector, where growth is increased by 0.76.

The study also points out that there would be a "multiplier effect" which the authors explain as follows:

> For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdressers more. This money will continue to circulate in the state's economy.

In addition, the study finds that Missouri is one of the five states with the highest amount of money spent on campaign expenditures, compared to the total contributions by state residents.

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[1] See Lessem, Rebbeca & Carly Urban, "*Local Economic Growth from Primary Election Spending,*" Working Paper, Carnegie Mellon University, 2012, attached hereto as Appendix A.

The study shows that there is more than twice as much campaign spending in Missouri as is contributed by state residents. This study finds that primary campaign spending increases income growth in a state. "[W]hen individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur)." (emphasis added).

While the Lessem & Urban study does not directly quantify the amount by which Missouri state election campaign spending stimulates the Missouri economy and the economies of Missouri local governments, it does demonstrate that there is significant fiscal impact of such spending.

There is no authority to suggest that the dollars spent at a local print shop, hotel, or restaurant by a presidential primary campaign operate differently in the Missouri economy than if spent by a campaign for state senator or state representative. And while increased election spending has a positive effect on a state's economy, drastically reducing election spending will have a correlated negative effect on the economy. We can examine data from the Missouri Ethics Commission to see the true impact of limiting campaign contributions.

2014-032's Effect on Nixon 2012

In order to understand the effect of 2014-055, we can examine a previous measure's effect. 2014-032 would limit campaign contributions to statewide elected officials, state senators, and state representatives to $2,600. In 2012, Jay Nixon ran a successful re-election campaign for Governor. While his campaign spent money in the years leading up to 2012, we have limited our analysis to a single year. First, we will examine contributions. In 2012, alone, Nixon's candidate committee received donations ranging from eleven cents to $500,000.00. More than 40% of the contributions to Nixon's campaign came from out of state.

Nixon 2012	
Contributions from in-state	$4,703,437.39
Contributions from out-of-state	$3,348,067.98
Percentage Total Contributions from Out-of-State	41.58%

Under 2014-032 all candidate committees would be limited to contributions in the amount of $2,600 or less. With the proposed measure (2014-055), contributions to elect an individual to state senator would be limited to $1,000 and contributions to elect an individual to state representative would be limited to $500. While the exact contribution limits may differ, the analysis related to 2014-032 is persuasive for this proposed measure as well.

In 2012, Nixon's candidate committee received a total of $8,051,505.37 in contributions. If you limit each contributor to a previously suggested maximum ($2,600.00), the amount of contributions is significantly less -- $2,207,976.00. That is a decrease in contributions of more than $5.8 million dollars. Only 27.42% of Nixon's contributions in 2012 would have been lawful under a proposed cap on contributions at $2,600.00.[2]

Nixon 2012	
Total Contributions	$8,051,505.37
Contributions from Candidate Committees	$42,650.00
Contributions in excess of $2,600	$5,800,879.37
Total Lawful Contributions under 2600 Cap IP	$2,207,976.00
Total contributions prohibited under 2600 Cap IP	$5,843,529.37
Percent of lawful contributions of total contributions	27.42%

[2] In looking at the 2012 campaign of Kurt Schaefer for State Senate, a similar percentage (approximately 36%) of his total contributions would have been lawful under the new $1,000 limit.

The next step is to look at where these campaign dollars were being spent. According to the Missouri Ethics Commission, in 2012, Nixon's campaign spent more than $12 million dollars.[3] The expenditures are broken down by categories in the table below.

Nixon 2012		
	Spending (Dollars)	Percentage of Total Spending
Payroll & Field Work	$745,023.80	6.09
Missouri Taxes	$63,404.72	0.52
Federal Taxes	$330,642.56	2.70
Media	$9,181,550.00	75.10
Other Missouri Expenditures	$866,243.68	7.09
Out of State Expenditures	$1,039,072.50	8.50
	$12,225,937.26	100.00

Nixon spent approximately $750,000 on payroll or paying field workers. All of this amount would be subject to Missouri state income tax. The amount of taxes the Nixon campaign paid directly to the State of Missouri is in excess of $60,000. In addition, the Nixon campaign paid more than $300,000 in federal taxes. The cities of Kansas City & St. Louis presumably collected a 1% earnings tax from a portion of that amount. The $750,000 paid to employees would have a significant impact on the economy due to the multiplier effect. Much of that money would be spent on retail sales, generating sales tax for the state and local governments. If all of the people who normally work political campaigns no longer could be employed by campaigns, there would be significant belt tightening by these individuals which would result in additional lost sales tax revenue.

Nixon also spent more than $9 million dollars on "media." All of that money went to an out-of-state media company. Still, traditionally that company coordinates all the media

[3] Nixon had raised significant contributions prior to 2012 for the 2012 election cycle. If the proposed IP had been in effect, the loss of economic activity would be even greater.

purchases, which presumably were with in-state media providers, as Nixon was running for Governor of Missouri. While some of the $9 million dollars could be attributable to media production, the majority of it was likely for paid radio, television, and print advertising in Missouri. The loss of $9 million dollars in the Missouri media market in a single year is significant.

Nixon also paid more than $850,000 to other Missouri individuals or companies. Many of these expenditures were in the services and accommodations sectors. This money supports Missouri businesses and helps fund their payroll.

We have already seen that a similar proposed measure would have reduced Nixon's total campaign contributions by 72.58%. Assuming the proposed measure would decrease spending by the same amount, we can project what Nixon's spending would have looked like with a $2,600 contribution limit in place.

Nixon 2012		
	Spending (Dollars)	Projected Spending with Contr. Limits
Payroll & Field Work	$745,023.80	$204,285.53
Missouri Taxes	$63,404.72	$17,385.57
Federal Taxes	$330,642.56	$90,662.19
Media	$9,181,550.00	$2,517,581.01
Other Missouri Expenditures	$866,243.68	$237,524.02
Out of State Expenditures	$1,039,072.50	$284,913.68
	$12,225,937.26	$3,352,352.00

The proposed measure with the $2,600 cap would have translated into a spending decrease of $8.87 million dollars. Again, for just one campaign for just one year. Even if you assume only 75% of the "media" expenditures affect Missouri's economy, approximately 70% of Nixon's total campaign expenditures affect the Missouri economy. In total, just one year of one

campaign resulted in approximately $8.5 million dollars of expenditures in or affecting Missouri's economy. This estimate does not include the multiplier effect of such expenditures.

2014-055

Although, for this proposed measure, the campaign contribution limits would not apply to statewide elected officials, it does apply to state senators and state representatives. In addition, the limits are significantly lower than 2014-032. Under 2014-055, state representatives would only be allowed contributions less than 1/5 than allowed under 2014-32. The amount for allowable contributions for state senator would be less than half of what is allowed under 2014-032. If anything, the Nixon analysis overstates the amounts that would be allowable under 2014-055.

The Effect on the State of Missouri

According to the Missouri Ethics Commission, total expenditures by candidates that would be affected by the proposed measure were more than $20 million dollars in 2012. Reducing that number by the percentage of allowable contributions we saw with the Nixon campaign (27.42%) translates to a loss of more than $14.5 million dollars due to the initiative petition.

Statewide 2012			
	Spending (Dollars)	Projected Spending with Contr. Limits	Lost Dollars due to IP
Payroll & Field Work	$1,218,000	$333,975.60	$884,042.40
Missouri Taxes	$104,000	$28,516.80	$75,483.20
Federal Taxes	$540,000	$148,068.00	$391,932.00
Media	$15,020,000	$4,118,484.00	$10,901,516.00
Other Missouri Expenditures	$1,418,000	$388,815.60	$1,029,184.40
Out of State Expenditures	$1,700,000	$466,140.00	$1,233,860.00
Projected Effects	20,000,000	5,484,000	$14,516,000

The loss of these payroll amounts impacts state revenues in two ways: (1) the loss of state income taxes on these amounts and (2) the loss of state sales taxes forgone. First, the amount of state income taxes can be estimated taking the total payroll figure, applying the multiplier, and multiplying by the tax rate of .06%. Here, lost income tax revenue would total $265,207.32. In estimating lost sales tax amount, the multiplier must be applied. Previous research has suggested using a local fiscal multiplier of 5.[4] Assuming 35% of the payroll income is taxable spending, the total lost sales tax revenue would be more than $65,000.

With respect to the media spending, assuming only 75% of that translates to Missouri corporate income, and applying the corporate tax rate translates into a loss of approximately $511,000. Also assuming that half of the media spending is paid out to employees in salaries, there would be lost income taxes and sales taxes on that amount. There would be approximately $1,635,227.40 in lost income tax. There would be a corresponding loss of state sales tax revenue from this loss of salary in the amount of $337,048.48. Finally, there would be sales tax lost on the "other Missouri expenditures." Even assuming only half of such expenditures were taxable, applying the multiplier and the sales tax rate, the state would lose $130,326.46 of sales tax revenue. The number of "other Missouri expenditures" is also likely to be greater under the 2014-055 proposal because state senators and state representatives are not as likely to spend as much money out-of-state as are statewide candidates.[5] The total loss to Missouri state government (based on only one year of one election cycle) is at least $3 million dollars.

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[4] A multiplier helps estimate the direct impact, indirect impact and induced impacts. Direct impact includes the payroll dollars being paid. Indirect impact represents the impact of routine consumer spending by those individuals. Induced effects are those changes in spending due to additional (or lost) employment generated by the direct and indirect effects. "Expenditure Multiplier" attached as Appendix B.

[5] In looking at the 2012 campaign of Kurt Schaefer for State Senate, none of his expenditures were out-of-state.

2014-055 Impact on the State	
Lost State Income Tax due to lost campaign payroll	$265,207.32
Lost State Income Tax due to lost media payroll	$1,635,227.40
Lost State Sales Tax due to lost campaign payroll	$65,362.55
Lost State Sales Tax due to lost media payroll	$403,015.42
Lost State Sales Tax on "Other Missouri Expenditures"	$130,326.46
Lost Corporate Income Tax on media companies income	$511,008.56
TOTAL	$3,010,147.71

The Effect on Local Government

In addition, the proposed measure would have a significant effect on local government revenue. In St. Louis and Kansas City, a 1% earnings tax is collected on income. There would be losses associated with both the lost campaign payroll and lost media payroll, in the amounts of $5,745.27 and $35,424.48 respectively.[6] In addition, the average local sales tax rate is 3.45% in Missouri. This rate was applied to the same tax bases as described above, resulting in total lost sales tax revenue of over $450,000. The total loss to local governments as a result of the proposed measure exceeds $500,000.

2014-055 Impact on Local Governments	
Lost Earnings Tax due to lost campaign payroll	$5,745.27
Lost Earnings Tax due to lost media payroll	$35,424.48
Lost Local Sales Tax due to lost campaign payroll	$53,372.97
Lost Local Sales Tax due to lost media payroll	$329,089.51

[6] In 2011, the population of St. Louis and Kansas City as a percentage of total state population was 12.998% according to the U.S. census bureau. Applying this percentage to the total payroll statewide generates an estimate of payroll that would be subject to the earnings and income tax. This estimate will likely underestimate the actual fiscal impact because the earnings tax is collected from all city residents and all non-city residents who work within the city limits.

Lost Local Sales Tax on "Other Missouri Expenditures"	$88,767.15
TOTAL	$512,399.38

Limiting Lobbying Expenditures

The proposed measure also significantly restricts lobbying expenditures. Restricting spending by Missouri lobbyists in Missouri would also affect Missouri's economy. Particularly, restricting lobbyist spending would have a negative economic effect on the City of Jefferson and Cole County, where lobbyists spend the majority of their time from January to May of each year. The Auditor is encouraged to contact both jurisdictions to clarify and quantify that impact.

In 2012, lobbyist gifts totaled $886,236.60. That number equates to more than $187,200 collected in state sales tax and more than $152,875 in local sales tax that would be lost as a result of the proposed measure.[7]

Conclusion

The proposed measure would have a significant negative economic impact on both the state and local governments in Missouri.[8] In just one year, total election spending amounted to almost $50 million in Missouri. Election spending by candidates affected by this measure would amount to more than $20 million. The proposed measure would drastically reduce election spending. State and local governments would lose income and earnings tax revenue and sales tax revenue, not just on the amount of decreased election spending, but much more, due to the multiplier effect. Any estimate of fiscal impact of the proposed measure must include these

[7] These numbers are based on a state sales tax rate of 4.225, a local sales tax rate of 3.45, and a multipler of 5.

[8] To the extent the Auditor finds the numbers herein "speculative," we request that the Auditor specifically request an estimate from Office of Administration (Budget and Planning) on the negative effects of campaign contribution limitations.

significant losses in order to adequately inform potential signors and voters. We submit the following proposed statement of fiscal impact:

> It is estimated this proposal will increase state government costs by at least $118,000 annually and have an unknown increase in costs for local government entities. The potential negative impact to revenues for state and local governmental entities could be significant, but is unknown.

Local Economic Growth from Primary Election Spending*

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December 4, 2012

Abstract

This paper asks how government and private consumption spending affect earnings in service sectors. To do this, we exploit a natural experiment, using an exogenous form of consumption spending–the money spent while campaigning for a party's Presidential primary nomination. To answer these questions, we create a novel dataset combining the date each state held its primary from 1976-2008, the date in each election cycle in which only one candidate remained, and quarterly state income by sector. Hosting a primary election increases total income, particularly in the accommodations sector. These results remain consistent when using data on primary campaign expenditures across states in the 2004 and 2008 elections.

JEL codes: D72, H30

*The authors acknowledge helpful comments from Dennis Epple, Amit Gandhi, Ken Goldstein, Andrew Reschovsky, John Karl Scholz, Alan Sorenson, and Chris Taber. All remaining errors are our own.

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Appendix A

1 Introduction

Government expenditures have been found to increase employment and income.[1] However, this literature restricts itself to studying investment expenditures in the form of education, health, military, and infrastructure spending, leaving the question, "How does added consumption spending affect income?" unanswered.[2] This paper uses a natural experiment to estimate the relationship between consumption spending and short-run income growth by exploiting exogenous variation in the duration and ordering of Presidential primary campaigns.

In 2008 alone, these campaigns spent $348 million across states on hotels, meals, rental cars, and other campaign expenditures.[3] This figure does not include the amount spent by media covering the race, personal in-state expenses of staffers, or additional funds individuals outlay when coming out to witness the spectacle of a primary race. We use this exogenous spending to determine the short-run income growth when money enters a state economy.

Primary elections are held sequentially by state and each election cycle varies in duration due to changes in the competitiveness of elections. In some years, there is no primary in many states, as the nomination is determined long before each state has its turn to vote for a nominee.[4] For example, in 2004 Senator Kerry clinched the Democratic nomination in March, whereas in 2008 President Obama did not win the nomination until June. In

[1] See for example, Wilson (2011), Shoag (2010), Serrato and Wingender (2010), Chodorow-Reich et al. (2011), Ramey (2011), and Ramey (2011a).

[2] To a certain degree, this question has been addressed in the literature on the economic impact of mega-events such as the Superbowl, Presidential Nomination conventions, and the Olympics, (See Matheson (2006) and citations therein). However, it differs in certain respects, most importantly in that we have a stronger identification stratedy. In primary elections, there is ex-ante uncertainty as to whether or not a state will be reached by primary campaigns, whereas mega-events are planned far in advance. Mega-events allow an area to anticipate additional consumption expenditures and internalize the benefits by increasing up front costs. However, the value of consumption spending in a primary is unanticipated ex-ante and the variance in spending between hosting and not hosting a primary is high, deterring businesses from internalizing the benefits prior to the event. Second, candidates campaign in areas to reach the maximum number of pivotal voters not in the most desirable tourist locations, so it is unlikely that crowd out of the local tourist sector occurs in this setting as in the prior vein of literature.

[3] Authors' calculation based on CRP (2011).

[4] We consider the nomination determined once there is only one candidate remaining in the contest.

particularly long primary elections, local businesses in states that are not normally exposed to primary campaigns receive an exogenous increase in revenue. In addition, many states change their position on the primary calendar between election cycles.

This paper first establishes the exogeneity of campaign spending and economic indicators. Next, we exploit the variation in whether or not a state receives campaign spending in each year to test how this increased spending affects local economies. Specifically, we study how income growth is affected by the presence of a primary in a given state and quarter.[5]

To conduct this analysis, we create a novel dataset of primary and caucus dates from 1976-2008, where we determine if a state held a primary based on the scheduled primary date and the date in which only one candidate remained in each party's election. We pair this primary elections data with quarterly state-level and sector-specific information on personal income levels from the Bureau of Economic Analysis (BEA).

We find that the presence of a primary increases overall income, as well as income in service-related sectors. From 1976-2008, income growth increased by 0.53 percentage points in states with primaries, compared to an average income growth of 1.3 percentage points per quarter. This implies about a 41% increase in the quarterly income growth rate in quarters when there is primary spending. Our results are robust to controlling for factors related to the amount of spending as well as to including state fixed effects. We verify these results using data on campaign expenditures for 2004 and 2008 from the Center for Responsive Politics.[6] In this setting, we find that doubling campaign expenditures increases overall income growth by about 0.05 percentage points (or hosting a primary results in a 35% increase in quarterly income growth rates), and this effect is particularly pronounced in the accommodations sector.

[5]The idea that election outcomes could affect the economy is not new. Snowberg et al. (2007) use prediction market analysis of elections from 1880-2004 to show that electing a Republican President raises equity valuations by 23%. Knight (2006) shows that policy platforms in the 2008 Presidential general election were capitalized into equity prices. No one has previously asked how the act of campaigning can affect the economy.

[6]Data on campaign expenditures are only available for these two years.

We appeal to two distinct literatures in this paper. First, the existence of primary elections provides a new environment in which to study local economic development, through exogenous shocks to consumption expenditures. Recently, scholars and policymakers have expressed interest in the American Recovery and Reinvestment Act (ARRA) spending. Wilson (2011) and Chodorow-Reich et al. (2011) use instrumental variable strategies and find that one new job created costs $125,000 and $26,300 per year, respectively.[7] Asking a similar question Serrato and Wingender (2010) find that an additional job costs $30,000 per year, using an instrumental variables strategy and data on federal investment spending. Similarly, Shoag (2010) uses the idiosyncratic component of state-managed defined benefit pensions to predict government spending. He finds that $35,000 of spending generates one additional job.

In comparison to the papers just mentioned, we avoid the natural endogeneity concern that spending is often allocated to states in the most need of growth.[8] Candidates campaign as to maximize their chances of winning the election, which generally means following the primary calendar. Candidates campaign in states sequentially, and tend to not visit a state until the primary is upcoming. One reason for this is that individual victories create momentum to propel a candidate to his next contest.[9] In addition, candidates also have a disincentive to over-spend in the primary, as they want to save any potential funds for the general election battle, conditional on winning the nomination. For these reasons, the optimal strategy for candidates is to campaign sequentially, meaning that the allocation of funds will depend on the primary schedule and will be exogenous to local economic conditions.

In addition, our paper studies the effect of spending on a different set of sectors than is normally assessed. Most of the ARRA funds were centered around Medicaid and

[7]Chodorow-Reich et al. (2011) find that the jobs resulting from Medicaid spending are concentrated in the state and local government, health, and education sectors.

[8]This is particularly true in the cases of the ARRA spending, though Knight (2002) shows that this can also be true in the transportation sector.

[9]See Abramowitz (1989), Abramson et al. (1992), Mutz (1998), Adkins and Dowdle (2001), Callander (2007), Strumpf (2002), and Klumpp and Polborn (2006) for more on the necessity of momentum in primary contests.

education, and other federal spending initiatives focused on infrastructure investment, energy efficiency, unemployment assistance, and state and local government stabilization (111th Congress 2009). On the other hand, primary spending likely benefits the local economy in the service-related sectors. Another unique feature of our work is that transfers do not entirely come from the federal government, allowing us to study how increases in consumption expenditures in the form of transfers can affect income growth. Primary campaigns are sometimes funded through federal matching, but candidates vying for their party's presidential nomination rely on money from individual donors and from Political Action Committees.[10]

Second, while we establish that the duration of a primary and the time in which states changed their primary dates are uncorrelated with economic indicators, our paper adds to the literature investigating the incentives for states to hold early primaries.[11] States early in the primary process are presumed to have a disproportionate effect on candidate selection by building candidate viability, attracting donors and volunteers, and creating momentum (Abramowitz 1989; Abramson et al. 1992; Mutz 1998). Some work examines the policy benefits of early contests. Taylor (2010) finds no effect, while Knight and Schiff (2010) find that early contests had a 20% greater influence over candidate selection than later contests in 2004.[12] Similarly, Malhotra and Snowberg (2011) find that the order mattered less than pivotal, or competitive, primary contests in 2008. Theoretical work demonstrates that voters can use early contests as cues in determining their vote choices.[13] This paper is the first to investigate the potential economic benefits of having an early

[10]See Section 6 for more on federal funding percentages.

[11]States have a demonstrated interest in holding early primaries. For example, in 2008 Michigan and Florida moved their primaries to January, and this was rejected by the DNC. Democratic candidates agreed to refrain from campaigning in these states, and the delegates were not counted in the candidates' totals. This did not deter Florida from moving its primary up in the order again in 2012, which was this time rejected by the RNC, costing the state half of its delegates (Grice 2012). Thus, moving a primary contest too early can be costly, yet states are still attempting to change their primary dates.

[12]Taylor (2010) uses state procurement data from 1984 to 2004 to show that primary order matters only in competitive nominations when the victorious candidate won that states contest. Knight and Schiff (2010) use changes in prediction markets over the election to identify influence.

[13]See Morton and Williams (2001), Callander (2007), Serra (2011), and Ali and Kartik (2006).

nomination contest.[14]

The remainder of the paper is organized as follows. Section 2 describes the construction of the dataset. Section 3 provides descriptive statistics and motivates our identification strategy. Section 4 explains our empirical strategies and presents our findings. Section 5 discusses the source of campaign funds, and Section 6 provides concluding remarks.

2 Data

We combine institutional details of primary races dating back to 1976 with state-level personal income data from the Bureau of Economic Analysis (BEA), creating a comprehensive Presidential primary and local economic database. In the next 3 sub-sections, we explain how we collected these data. For more information on the specifics of the variables created, including summary statistics, the source of each variable and the calculation of each variable, see Tables 8-10 in Appendix A.

2.1 Primary Information

We hand-collect a thorough database of the dates of each primary or caucus in each state starting from 1976, which is the first year the Democratic National Committee (DNC) and Republic National Committee (RNC) held conventions in their current forms, and ending in 2008.[15] We obtain this information from the Green Papers (for primaries), as well as Frontloading HQ (for caucuses), and confirm these with state election boards when the two are not consistent. When a state's delegates are determined by only state party officials (and not in caucuses or primaries with individual voters), we count this as

[14]A parallel literature looks at the effects of the primary structure on general election outcomes. The primary process may constrain candidates from converging to the position of the median voter, as they will take on more extreme positions to satisfy primary voters who are less moderate than the general population (Geer 1988; Norrander 1989). Malhotra and Snowberg (2011) study the effects of early contests more broadly, including candidates' difficulties of returning to the center in the general after trying to attract primary voters.

[15]This means that individual voters, not party elites, began selecting candidates in each state. The candidate with the most delegates earned the nomination at a national convention.

a case where the state did not have a "primary." In cases where states hold a "beauty contest" nomination, where individual voters choose their favorite candidate but there are no delegates at stake, we count this as having a "primary," as some candidates find it important to win a symbolic victory in these states to gain momentum.[16,17]

Next, we collect information on the date at which the nomination was clinched for each party in each year. We award a candidate the nomination when he is the only candidate left in the contest, meaning that the primary campaigning has ended. This sometimes occurs months before the convention date. Table 1 contains the dates at which candidates clinched the nominations over time. In cases where the incumbent was not challenged in the primary, such as 1984 for Ronald Reagan, we code the primary for that party as "no primary."[18]

Additionally, in certain situations there could be spending for the primary and the general election at the same time. For example, in 2004, when President George W. Bush was the incumbent, he immediately began campaigning for the general election because he had no competition in the primary. During this same time period, Democrats were competing for their party's nomination. Likewise, in 2008 Senator McCain started to campaign for the general election once he clinched the nomination in March, whereas the Democratic primary continued for three additional months. We want to be sure that we are measuring the effect of primary election, not general election, spending. Thus, we collect data on the battleground states for each election cycle, asserting the conventional wisdom that candidates only campaign in battleground states in Presidential general elections (Stromberg 2008; Ashworth and Clinton 2007; Huber and Arceneaux 2007).[19]

[16]States holding these "beauty contests" usually choose their candidate based on conventions and state party officials' decisions. After 2000, there are some instances where there were no delegates at stake, after a state had moved up in the primary process and one of the national committees considered this unconstitutional , i.e. Michigan and Florida in 2008. These two states still had campaigning from the Republicans, so we include them in this context alone.

[17]The primary dates by party for each state and year combination from 1976 to 2008 are available upon request.

[18]All incumbents do not have the luxury of having no opposition in the primary election. For example, President Carter's low approval ratings gave the DNC justification to push other candidates, including Edward Kennedy, to challenge him in the primary contest.

[19]See Section 2.3 for more on spending.

We label a state as a battleground state if the difference in the likelihood the Democratic candidate wins and the Republican candidate wins is ever within 10 percentage points in Intrade prediction markets or polling data (specifically, pollster.com and David Leip's polling report). In earlier elections when polls are more sparsely available (i.e., 1976-1992), we instead look at the races where the candidates' end vote shares were within 10 percentage points of one another.[20] Finally, a state can only be labeled as a battleground state if 1) the election cycle has started and 2) the primary contest in at least one party has been completed (i.e., only one candidate is remaining).[21]

2.2 Income

The BEA reports total personal income in each quarter and state, for each sector of the economy. For the purpose of this paper, we refer to total earnings (excluding government transfers) as total income. We transform this into per-capita values using population data from the US census. In addition to total income per capita, we focus on the sectors where we would expect large effects from primary spending, which are mostly service related sectors. Accommodations and retail are two sectors we focus on, in that the visiting campaign staff and media will need to stay in hotels and make purchases during the campaigns. The accommodations and retail sector accounted for about 5% and 9% of total income in 2008, respectively.

The BEA data is divided into 2 periods: 1974-2001, and 1990-2009, and the sector definitions changed across the two periods. We focus our analysis on the services sector, particularly food and accommodations, because that is where we expect to see the largest effect. In the data from 1974-2001, the BEA only reports total income in the services sector. However, in the 1990-2009 data, they divide services into different groups, including food and accommodations, which we focus on. We therefore do the analysis separately

[20] A list of each state and the years in which the state was a battleground in competitive in the general election is shown in Appendix B.

[21] Conditional on hosting a primary in a given quarter, the probability that a given state is labeled a battleground state in the same quarter is less than 39 percent.

for each period due to these data limitations.[22]

2.3 Campaign Expenditures

We obtain campaign expenditures data for the 2004 and 2008 primary election cycles from the Center for Responsive Politics (CRP), which collects and compiles data from the Federal Election Commission.[23] These data contain information on each expenditure made in House and Presidential races by campaigns, Political Action Committees (PACs), and state parties, where each expense contains a date, location (down to zip code), and information on what the expense entailed (i.e. hotel). We narrow this dataset to include only expenses made in pursuit of the primary nomination by the Presidential candidate's official campaign, i.e. "Barack Obama for President, 2008." We do not include PAC spending as it is difficult to understand for which campaign the PAC is spending its funds (i.e. Presidential or House) in the data.

These data also include information on the division of the campaign in which the expense was made. We create two different measures of expenditures. Campaign expenditures consist of all money spent by the candidate and his direct staff on travel, hotel rooms, and meals, as well as local polling, Get-out-the-Vote campaigns (GOTV), and campaign events. In addition, campaign expenditures include what the campaign calls "administrative expenditures," which includes all money spent on the offices within a state and its staffers. This mostly consists of spending on catering for meetings, rent, utilities, cable, and internet in campaign offices, administrative supplies (associated largely with IT costs), and staffer travels (rental cars, housing, flights, etc.). Total expenditures include all expenses listed under our campaign expenditures measure, as well as money spent on broadcast, radio, and print advertising, along with other media-related costs (i.e., media consultants, production costs of advertisements, and miscellaneous costs related to getting

[22]We attempted to aggregate the 1990-2009 data to get a total measure of income in the services sector. Since the years 1990-2001 are included in both datasets, we can compare to see how similar the two measures are. They are very different, which is why we could not use this aggregated services income in the same analysis as the 1974-2001 services data.

[23]See CRP (2011) for more information on the dataset.

out the message).

The total expenditures are likely to include some expenses that do not directly affect a state's local economy at the time of a primary, though they are expenses made for the primary campaign. For example, the production of an advertisement run in Iowa could be done in California, and thus included in this measure. The production could also be done in Iowa, however, and it is not feasible, given the data, to distinguish the two. Thus, for the remainder of the paper, we choose to focus on the campaign spending measure in favor of the total expenditures measure.

We expect that campaign expenditures are a good proxy for the candidate's travel and the campaign's direct expenses. However, the administrative portion of the campaign expenditures are likely a lower bound for the amount of money staffers spend in each state during the campaign. For example, if campaign staff goes to a restaurant in the evening, this will not be covered as a campaign expense, especially if the meal includes alcohol. This spending amount is a lower bound for total exogenous spending in the area, since national news and media crews also tend to follow and cover the primary schedule state by state. Even with this lower bound, states with primaries tend to see between one half a million and 19 million dollars in spending over an election cycle. Comparing this to the median total income in the retail and accommodations sectors, 7.14 and 3.3 billion respectively, this is still enough money to modestly boost local income growth.[24]

3 Descriptive Statistics

In this section, we first argue that the timing and existence of a primary campaign is exogenous to local economic growth. We next look at the campaign expenditures data from 2004 and 2008 to establish that there is more spending during primary campaigns.

[24]If we instead use total expenditures instead of campaign and administration expenditures in the analysis that follows, our results are slightly smaller in magnitude, though they remain substantively similar to the estimates provided. These results are available upon request.

3.1 Exogeneity of Primary Campaigns

The identification strategy in this paper comes from the orthogonality of primary campaign spending in a given state and the state's local economy, where the nature of primary contests gives candidates an incentive to campaign sequentially. Since this money is not targeted to states with the most need, the shock to consumption expenditures generated from primary campaign spending is exogenous to income levels. Iowa's primary is always first in the election cycle, so the state should expect the millions of dollars spent in local businesses by the Presidential campaigns, media crews, and the ceremony of the primary election. Since the natural experiment fails in this case, we drop all states that have a primary in every year in our analysis. Other states, however, experience more variation in regards to (1) whether or not any money will be spent in primary campaigns and (2) how much money will be spent. This variation comes from two main channels.

First, the duration of any primary campaign is unknown ex ante. While some primary campaigns leave only one candidate in each party after only a few months (i.e. in 2004 when Senatory Kerry clinched in March), other election cycles (i.e. 2008) carry on until June, reaching every state. Figure 1 shows the variation, by party, of the number of states reached by campaigns in each election cycle. This shows significant fluctuations in the number of states that have primary elections each year, particularly in Republican primaries. Alternatively, Figure 2 plots the duration of primary campaigns over time, where the duration is defined as the number of days from the first primary until only one candidate remained in the contest.[25] In general, the early contests from 1976-1992 took longer to determine each party's candidate.

Figure 2 additionally plots the average real GDP per capita in the US over time, reassuring us that the duration of primaries is uncorrelated with the state of the economy.[26] To provide a specific example of the changes in primary campaigning between years, we

[25]Since there are potentially 2 primaries in each state and year, there is a duration for each contest. We plot the length of the longer primary in each year.

[26]When regressing real GDP per capita on the duration of primaries, we find no statistically significant relationship between the two variables.

show the changes in primary status by states between the 2004 and 2008 elections. Figure 4 shows which states switched primary status between 2004 and 2008. Comparing just these 2 election cycles, we see that there are many states that had primaries in 2008 but not 2004, due to both the fact that there was no Republican primary in 2004 and the length and competitiveness of the 2008 Democratic primary.

Second, the ordering of primaries across states has changed drastically from 1976 through the present day. Although national parties have some influence on the timing of primaries, the decisions are ultimately made by each state. There has been significant movement in the primary calendar over time. The change in ordering also allows for some states to experience campaign spending in some election cycles and not others. In addition, if a state's primary moves to a day in which many other states hold their contests, this may lead to a reduction in campaign spending in that state. This gives us variation in both the existence of and amount of spending by primary campaigns.

The argument in our paper implies that states should have an incentive to move their primaries earlier in the calendar in order to gain economic benefits. If this were true, then we could no longer argue that primaries are exogenous. However, we do not believe that this is the case, due to the lengthy process involved in changing primary dates. In order for a state to be able to change its Presidential primary date, the state legislature must propose a bill, which in most states is an extremely lengthy process, where less than 5-10% of bills are passed.[27] The lengthy process creates difficulty for states to change their date in a timely fashion, making it unlikely that the primary date will be switched (and reached) when the state's economy is at its worst. In addition, the state and national party officials must approve the change in date for the state's delegates to count in the nomination process.

Furthermore, even though this change of date is under the authorization of state

[27]Most states have dates like the following from Montana's Constitution: 13-1-107. Times for holding primary elections. (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state (The Constitution of the State of Montana, 2011).

elected officials who have an interest in state policy, a state's change in ordering is seemingly uncorrelated with a change in economic indicators. To demonstrate this, in each year we split the states into two groups: those who changed their primary date from the previous election, and those that did not.[28] Figure 3 plots the average GDP growth in both groups over time.[29] The graph also shows the number of states that changed their primary date in each year. This figure shows no systematic difference between the GDP growth in both groups over time.[30] We also see that there are a large number of states that change their primary dates each year, showing that this provides an important source of variation.

An additional literature on vote-buying suggests that politicians can adjust funds on a state-by-state basis (See e.g., Levitt and Snyder (1995); Fleck (2008)). If government funds are correlated with campaign spending, this could additionally confound our effect. However, the ability of politicians to adjust the allocation of government funds quickly on a state-by-state basis is limited. For example, Senator Kerry would have trouble providing a voting record that appeased each state he visited in his Presidential primary campaign surrounding the time of that state's election. This makes the approach taken in this paper more compelling than studies that focus on differences in policy spending over time as exogenous variation.

3.2 Primary Spending

In this paper, we study whether the existence of a primary increases local income. For there to be an effect, there has to be more campaign spending in states with primaries. To verify that this is true, we use data on campaign expenditures from the 2004 and 2008 primary elections. Table 2 shows the distribution of spending for primaries by quarter,

[28] We label a state as having changed their primary date if the date of the primary made a substantial change (i.e. more than 2 weeks) such that it took an initiative within the state's Board of Elections and changed the ordering of the primary schedule.

[29] The average GDP growth takes percentage growth of GDP between two years of each state (in each group) and takes the average of those observations by year.

[30] A t-test shows that the difference in the means is not statistically different than 0.

where states with primaries in the current or next period have higher spending than areas without primaries. We see that spending increases not only increased during the quarter of the primary, but also in the quarter before the primary. Early spending could occur because candidates campaign in some states for an extended period of time, especially when the race is on the cusp of two quarters.

Next, we look at the changes in spending in states as they change primary status over the years, to ensure that having a primary leads to increased spending. In general, we see that states that did not have a primary in 2004 and did have one in 2008 tended to have more spending in 2008. Figure 4 shows the states that held a primary in 2008 and not in 2004, and Figure 5 shows the percentage change in expenditures between the two election cycles. States such as Pennsylvania and Utah, which were reached in the lengthy Democratic campaign in 2008, had over 20 percent more primary spending in this election cycle than they did in 2004, when the process culminated before the state was reached. There is also an increase in spending from 2004 to 2008 in early states like Iowa, South Carolina, and New Hampshire, where the increased number of candidates and the fact that both parties held primaries increased the spending in those states. Conversely, the state election boards in Michigan and Florida moved their Presidential primary contests up, and set the elections in January 2008. The DNC challenged these moves, and in turn, Democratic candidates opted to not campaign in these states. Thus, spending in these states actually decreased from their later primary day in 2004.[31] Overall, these figures show variation in spending in states, depending on whether or not there is a primary in that year. This supports our argument that there will be more spending in states with primaries.

Using the spending data and the primary dummies in 2004 and 2008, we estimate the

[31]There are cases where state boundaries provide a neighboring state with additional spending when there is not a primary in that state. For example, New Jersey benefited from New York's early primary on a day independent of all other primary contests in 2004. This is because candidates spent money renting cars, purchasing hotel rooms, and eating some meals in New Jersey, though they were officially campaigning in NY. When compared to 2008, even though NJ held its own primary, it did this on a day when many other states also held primaries, as did NY. This made spending higher in the previous election cycle.

relationship between the existence of a primary and spending growth, while controlling for the same factors we take into account in our later analysis. We first construct a set of control variables we expect to be correlated with the intensity of spending. The structure of the primary calendar is such that there is often one day with many of the elections, typically called "Super Tuesday." We control for whether or not an election in a state is on this day each year.[32] Another possibility is that in states with late primaries, early spending for the general election when one party's nominee has been determined and the other has not could falsely lead to higher levels of income growth, especially in battleground states. To account for this, we control for whether or not a state is a battleground state in periods after one party's candidate has been chosen.[33]

The first column in Table 3 shows that the existence of a primary more than doubles spending growth in that quarter, when compared to states without primaries. Primary spending growth is lower in "Super Tuesday" states when compared to states with primaries on other days, as "Super Tuesday" elections make it hard for time-constrained politicians to campaign everywhere. In addition, battleground states tend to have significantly lower spending growth than non-battleground states. This result is not surprising since our dependent variable is only primary spending growth, and does not include money earmarked for the general election.[34] In addition, competitive states are always labeled as "battleground" in the third quarter of the election year, or the height of the general election. This is the time in which primary growth is most likely to be negative, or lower than the previous period. If we add state level fixed effects to this model, as in Column (2), we see that primary campaigning still more than doubles spending growth when com-

[32]Our "Super Tuesday" control is defined as the day each year that has the most primary elections in a given state. The list of states with primaries on "Super Tuesday" in each year is shown in Appendix B. "Super Tuesday" is always reached, so it is an interaction term between the primary dummy and having an election on the given date.

[33]We could include a control for whether or not a state held a competitive primary. For example, in President Bush's home state of Texas, he may have already been a favorite and not needed to campaign. However, enough states have a proportional share of electoral votes, so candidates still receive votes towards the final count if they do not win a majority in a given state.

[34]The probability of being in a battleground state in a given quarter conditional on having a primary in the same state, quarter is less than 36% in this sample.

pared to a period when the state did not have a primary. Hosting a primary on "Super Tuesday" lowers this substantially, as does being in a battleground state.

4 Empirical Analysis

In this section, we estimate the effect of primary spending on local economic development. We first test how the existence of a primary before the nomination has been determined affects changes in income growth from 1976-2008. We then verify these results using data on campaign expenditures across states in the 2004 and 2008 elections.

4.1 Existence of a Primary

We assume that a state's income in a given quarter depends on whether or not there is a primary in a given time period, a set of control variables, and state and year fixed effects. Let P_{it} be a dummy variable indicating whether or not there is a primary in state i at time t. Denote the log average per capita income in sector s in state i at time (year) t as y_{ist}, state fixed effects as μ_{is}, time fixed effects as γ_{st}, control variables as X_{it}, and the error term as ϵ_{ist}. Then we can write

$$y_{ist} = \beta_{0s} + \beta_{1s} P_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist} \tag{1}$$

Taking first differences of Equation (1), the state and year fixed effects drop out:[35]

$$\Delta y_{ist} = \beta_{1s} \Delta P_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \ , \tag{2}$$

where $\hat{\epsilon}_{ist} = \Delta \epsilon_{ist}$.

We estimate equation (2) and look at how changes in the primary dummy variable

[35]The year fixed effects do not drop out in every period. Since we are using quarterly data, as we go from the 4th quarter of one year to the first quarter of the next, the year fixed effects technically will not difference out. However, since they would only be identified off of one quarter per year, we chose to drop these year fixed effects.

affect income growth in different sectors. Identification in this specification comes from comparing states with primaries to those that do not have primaries. We define a state as having primary spending if there is a primary in the current quarter or in the next quarter, acknowledging that candidates sometimes spend an extended amount of time campaigning in a state.

We drop states that have primaries in every election year, as it is hard to argue that the existence of a primary is exogenous in states that anticipate primary spending each cycle. Perfect foresight of primary spending may allow individuals to internalize more upfront costs, where business that normally would not be open in a given season may change their behavior since they know primary campaigns will spend there with certainty each cycle. These states invalidate the natural experiment present, where it is necessary to maintain uncertainty in the timing and duration of primary elections. Dropping these traditionally early states leaves us with a sample of states for which there is variation in whether or not there is a primary, so each election cycle contains uncertainty as to whether or not they will receive primary spending.

We present the unconditional effects of hosting a primary. Since the existence of primary campaigns are exogenous to the state of the economy, the unconditional effects of campaign spending will be unbiased. In this specification, we still include quarter fixed effects to control for seasonal fluctuations in income. We control for variables that may affect the volume of spending, such as having a primary on "Super Tuesday" and whether or not the state was a battleground in the given period.

In Table 4, we show results for total earned income, as well as in sectors where we would expect the largest effect from primaries: accommodations, services, and retail trade. We expect accommodations to be particularly affected; however, this measure is not available for the early data, so we instead use the services sector for the first time period. The data from the later time period shows that accommodations is the service sector most affected by primary spending. We expect that primary campaign spending will directly affect the accommodations sector, as increased revenues from hotel room, catering, food services,

and additional expenses the campaigns incur flow straight into this sector. The definition of retail trade changed slightly between the two periods provided. However, since we are looking at growth, we pool the observations from the two time periods. To account for this difference, we include a dummy variable in the estimation to account for which time period the data is from.

The first three columns of Table 4 show that primary spending increases total income growth by approximately 0.53 percentage points, where the average state income growth reported in Table 8 in Appendix A is 1.3%. Primary spending increases income in the services and accommodations sectors by 0.76 and 0.47 percentage points, respectively (where the mean growth rates are 2.1% and 1.1%, respectively). For retail trade, we see a positive effect of primary spending on income levels, though this is not statistically different from zero.

Table 4 also shows that having a primary on Super Tuesday decreases the overall effect in Columns (1)-(5), so much so that they negate any positive effect of hosting a primary. This is expected because candidates devote less resources to each state if there are multiple primaries on the same day, as shown in Table 3. We do not find a statistically significant effect of being a battleground state. The timing is set such that states count as a battleground starting, in the calendar year of the election, when one candidate in either party has clinched the nomination. When an incumbent is not challenged in a primary, a state that is competitive in the general election is classified as a battleground state starting in the first quarter of the election year. However, the most intense campaigning occurs during the 3rd quarter of each election year. When we only allow states to be classified as battleground states in the third quarter, the battleground dummy variable is positive and statistically significant. This implies that income growth increases in battleground states later in the election cycle, possibly due to spending for the general election.

In an alternate specification, we also include state fixed effects when estimating Equation (2). In the initial setting, the state fixed effects dropped out of the regressions because we study income growth. In this next specification, we allow for state fixed ef-

fects in growth rates. This changes the identification of the dummy variable for primary elections. Without state fixed effects, the coefficient on the primary election variable was identified by comparing the income growth in states with and without primaries. By including state fixed effects, the coefficient is identified by comparing income growth in a given state when the primary variable changes values. The results with state fixed effects are in Table 5. This does not substantively change the results.

This increased income could come through increased labor force participation, or an increase in hours worked (as well as overtime pay) for current workers. Using data from the Bureau of Labor Statistics on the number of workers in each sector on a monthly basis, we find no effect of primary elections statistically different from zero. This implies that our results are due to increased hours worked for current workers in the sector.[36]

4.2 Expenditures

Next, we verify the results in the previous section with data on the amount spent by campaigns in each state during the 2004 and 2008 primary elections. This setup allows for an extra source of variation resulting from differences in expenditures across states and time.

Denote logged spending in a state as e_{it}, and y_{ist} is defined identical to Equation (1).[37] Then

$$y_{ist} = \beta_{0s} + \beta_{1s} e_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist}$$

Taking differences,[38]

$$\Delta y_{ist} = \beta_{1s} \Delta e_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \tag{3}$$

[36] In these results, we use the same specification as above. These results are available upon request.

[37] If we instead use per capita spending, our results are almost synonymous. This is because there is little change in state population between quarters. These results are in Table 13 in Appendix C.

[38] The year fixed effects will not difference out as we go from the last quarter of each year to the first quarter of the following year. However, since they would only be identified off of one quarter per year, we choose to drop the year fixed effects.

The parameter β_{1s} tells us how changes in spending growth affect income growth in each sector. This provides a more precise estimate of the effect of spending growth on income growth since we also have variation in spending in each state and quarter. Our identification largely comes from states that were reached in the 2008 election but not in 2004. However, we argue that the amount spent is orthogonal to a state's economic growth, as even if a state is consistently reached (and is reached in both 2004 and 2008), there is still uncertainty about the degree of spending in each year. For example, some years provide competition between candidates in both parties, while others have competition from only one. In addition, there is large variation in the number of entrants within each party between years. At times, favored candidates do not win the early states, turning the tide of the election, thereby increasing the competitiveness. Changes in primary dates affected the spending in some states as well. For example, New York moved its primary in 2008 to an election day with other states, causing a decrease in its expenditures between the two cycles. Thus, our variation comes from states that had both increased and decreased expenditures over the two election years. Finally, we exploit variation in spending over the course of the primary election cycle, where earlier contests with more competitors tend to exhibit more spending. As in the previous section, we drop the states with early primaries (Iowa, New Hampshire, and South Carolina), which have primary elections in every year.[39]

We use quarterly data on campaign expenditures in a given state to estimate Equation (3), and are interested in the coefficient on the growth rate in expenditures, β_{1s}. In this analysis, we use data from 2003-2004 and 2007-2008. We continue to control for battleground status of the state, though we no longer control for different attributes of the primary, as the spending amounts will capture the existence of a "Super Tuesday."[40]

Table 6 reports the coefficient and standard errors for β_{1s} in Equation (3), which is

[39]If we restrict the sample further to include only the states that change primary status between the two election cycles (or only estimating the extensive margin), our results remain substantively similar, though our standard errors become slightly larger.

[40]If we additionally control for lagged spending growth or the "Super Tuesday" dummy variable, β_{1s} is not statistically different from the specification shown in Table 6.

the coefficient on the growth rate in expenditures. In order to generate results that are comparable to those found in Tables 4-5, we estimate what the increased economic growth from having a primary. To do this, we use the results from Table 3, which show that having a primary more than doubles campaign spending in a state (or over 100%). We find that campaign spending modestly increases quarterly growth, where doubling campaign expenditures between quarters results in a 0.054 percentage point increase in a state's total income from the previous quarter, adjusting for seasonal increases in income. We see the largest effects in the accommodations and retail trade sectors, where doubling expenditures results in a 0.13 and 0.061 percentage point increase in income, respectively. We find larger effects in the accommodations sector than we do for total income. Comparing these to the mean income growth rates for the time period in Table 8 in Appendix A, we find that these results are about a 35% increase in total income, making these results consistent with the previous analysis.

The results for the retail trade sector are slightly different from the previous results using a primary dummy variable, as they are now statistically different from zero. While this sector has smaller growth rates on average when compared to the other two sectors, the increased growth in the later period may in part be influenced by the many technological and startup needs of the campaign offices' expenses that happened from 2004-2008 moreso than in previous periods. In addition, given a larger effort of grass roots campaigning from 2004-2008, staffers likely spent more time in less populated areas, allowing them to promote local economies more than in the longer time period. The battleground dummies again appear to slightly decrease income growth.

Similar to the previous section, we also include state fixed effects, where the comparison now comes from changes in spending growth within the same state. This is shown in Table 14, and does not substantially change the results. In addition, we replicate the results using the primary dummy variables from the previous subsection on this subsample. These results, in Table 15 in Appendix C, are consistent with the results in Tables 4-5.

Theoretically, these expenditure results can be used to calculate a multiplier, which

would give the effect of additional spending on income levels. We expect that a multiplier effect will exist if service sector employees are receiving higher wages and exuding higher levels of spending. For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdresser more. This money will continue to circulate in the state's economy. Calculating this multiplier would provide a comparison to the traditional literature on fiscal stimulus multipliers, given that this multiplier would reflect previously unstudied sectors. However, we do not have a complete measure of the amount spent during primary campaigns. Our measure of spending is a lower bound on the actual amount of additional spending brought forth by a Presidential primary campaign, and does not include spending by the media, individual spending by staffers, or the additional expenditures put forth by a state's residents in order to engage in campaign events. For simplicity, we will refer to these additional expenses as "media spending" for the remainder of the discussion. This mis-measurement of total spending makes it hard to calculate accurate multipliers.

We assume that media spending and our expenditure values are highly correlated,[41] which implies that our estimate of β_{1s} will not be biased. However, this makes it difficult to estimate the multiplier. The multiplier tells us how much total income would grow with an additional \$1 of spending. In our setup, an additional \$1 of primary spending does not just account for a \$1 increase in spending, as it would also be associated with an increase in media spending. Because we do not have an accurate measure of media spending, we are uncertain of the degree to which media spending would increase, and therefore cannot calculate an accurate multiplier. This argument implies that multipliers would be (and are) unreasonably large (just over 10). When we instead run simulations varying the amount of media spending, between 50% and 100% of our expenditure values, our estimates of β_{1s} remain statistically equivalent to the previous estimates. This simulation also produces lower and reasonable multiplier estimates within ranges of media spending

[41]We think this is a valid assumption since a race with greater primary spending may have more electoral votes and garner more media attention. Also, like candidates, networks are constrained if many contests occur on the same day and have to spend less covering each given state.

between 50% and 100% of total campaign spending (between 2 and 3.5). The biggest difference between our work and the traditional public finance literature looking at local multipliers is the lack of public investment spending in this paper.

5 Where is the Money Coming from?

A discussion of the economic benefit of primaries would be incomplete without considering the sources of these funds. In particular, concern may arise that campaign contributions from individuals within a state are approximately equal to campaign spending in that same state. If, for example, Iowa residents are contributing at a higher rate than the rest of the country (especially at the time of the primary), funds may simply be moving amongst Iowa citizens.

Campaign spending differs from traditional government spending because campaigns are financed through three sources: individual level contributions, federal matching funds, and Political Action Committee (PAC) contributions. Individual level contributions in presidential races are generally considered consumption goods, where an individual donates to a campaign if it increases his/her utility (Ansolabehere et al. 2003). Thus, individuals who enjoy following politics, as well as those with more resources, tend to contribute more money to candidates and do this more frequently (Brady et al. 1995). While we do not precisely know the counterfactual, we postulate that this money would not be spent in the absence of primaries, as those who contribute in primaries tend to be more high-income individuals whose budgets allow for some flexibility in spending. However, we cannot fully assess the value of individuals' participation in the process, where they give their time, or small dollar donations to the campaign. These resources would likely be reallocated in the absence of the race. An additional source of "individual" funds, which are less frequently utilized in primary races, is a candidate's personal expenditures, which likely would not be spent to the same extent in the absence of a race and are a direct transfer to individuals in the service sector of states with a high degree

of campaigning.

Second, partial public funding is available to Presidential primary candidates in the form of matching payments of up to $250 per individual contribution.[42] To obtain these funds, candidates must become eligible and limit themselves to spending caps.[43] Again, these funds differ from the traditional federal spending in that they are not targeted at aiming an impoverished area, but instead are entrusted to viable Presidential candidates with intentions of getting out their messages to help voters make an informed decision. There has been little variation in the total federal funds allocated for Presidential primary contests over our full sample period (1976-2008), and this money can be seen as a transfer from all taxpayers to those receiving campaigning.

Third, candidates receive money from PACs. While PAC contributions have increased significantly since 1976 (FEC 2010),[44] candidates still receive most of their money during the primary from individuals and matching funds. This is because partisan PACs generally wait until a candidate has clinched the nomination to stand behind him. In 2008, candidates raised a total of $534 million from individuals, $63 million from PACs, and $21 million from federal matching funds. Similarly, in 2004, candidates raised $130 million from individual contributors, $10 million from PACs, and $27 from federal funds.[45]

Recognizing that the majority of campaign spending comes from individuals, we analyze the geographic sources of the donations in Figures 6 - 7 for 2004 and 2008, respectively. We construct a measure, entitled Campaign Ratio, by dividing total campaign-related expenses (i.e., money spent specifically on the travel-related activities for campaigning, not on ads, media, consultants, etc.) in a given state by that state's total individual-level campaign contributions. Thus, the greater the measure, the more relative money that is coming from out of state than being spent in state.

[42]Variation in total federal funding will come via the number of contributions as well as the number of candidates raising the threshold amount to begin collecting federal dollars within each primary cycle.

[43]See `www.fec.gov` for more on these rules.

[44]Also, see the CRP `http://www.opensecrets.org/pres08/totals.php?cycle=2008` for more trends on giving and expenditures.

[45]Calculations based on Federal Election Commission data on Presidential candidates' primary fundraising.

In Figure 6, we see that in early states like Iowa, New Hampshire, South Carolina, Missouri, Arkansas, and Virginia, there is the greatest ratio of spending to contributions. States like Texas, Washington, and California had some of the lowest ratios in 2004, meaning that residents were contributing more money than was being spent in the state on campaigns. Similarly, Figure 7 shows that Iowa, New Hampshire, Wisconsin, Missouri and Iowa have the highest amount of money spent on primary campaign expenditures, compared to he total contributions by state residents. However, South Carolina and Kansas still saw more money spent in their states than what their residents contributed. In general, what we see is a transfer of funds from individuals in some states with many contributors to states early in the primary process, or on days with their own contest. These figures imply that the money being spent during primaries is mostly coming from outside the state.[46]

6 Conclusion

This paper takes a traditional public finance and macroeconomics question, asking how government spending affects local economies, and looks at primary campaign spending as an exogenous shock to previously unstudied sectors of a state's economy. We find that this money modestly increases income growth in a state. Specifically, the service sectors see the largest effects, where the accommodations sector seems to be the main source of this finding.

While other papers have investigated the ability of early primaries to influence policy, as candidate's attempt to appease early state's preferences in order to clench the nomination early (Malhotra and Snowberg 2011), our paper is the first to show the economic value of hosting a primary race. We also find that when there are few candidates in the race, it is more valuable to have a primary race that occurs independently of other states, making a Super Tuesday primary less valuable in terms of spending and economic

[46]Again, we do not look at small donations or within-state volunteering as inputs.

growth. This paper provides additional incentives for states to move their primaries up in the ordering, though to do so strategically.

Additionally, this paper provides a new insight on fiscal stimulus. While previous work has established a link between government spending and increases in employment, earnings, and income, this paper asserts that additional spending in states' service sectors provide short-run increases to personal earnings on the intensive margin. Thus, when individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur). A federal re-ordering of the primary calendar may best be structured to help states with struggling service sectors.

As policymakers continue to reform campaign finance legislation, they should consider the potential positive effects, though short-run and sector-specific, that can ensue from campaign spending in states.

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Figures

Figure 1: Number of primaries over time

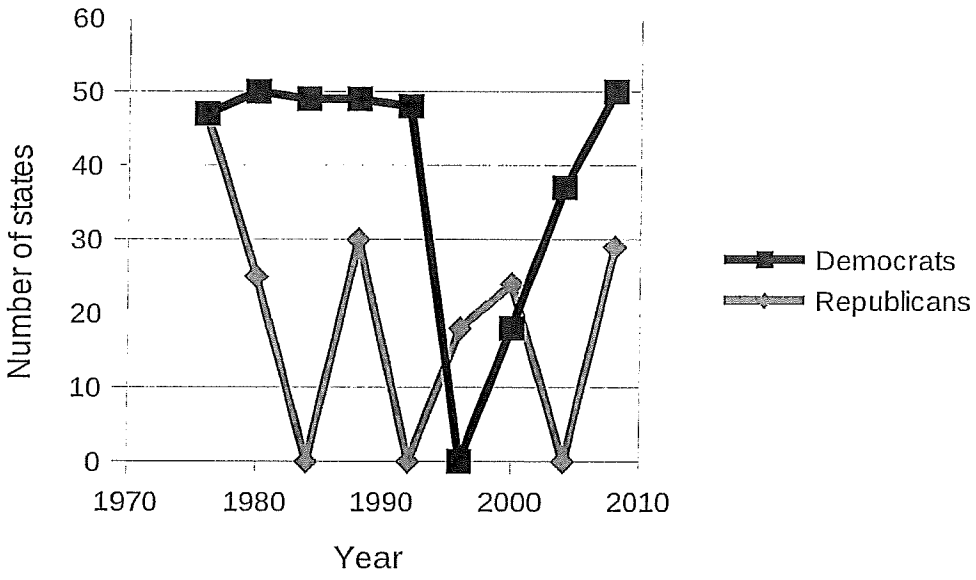


Figure 2: Primary Length and GDP

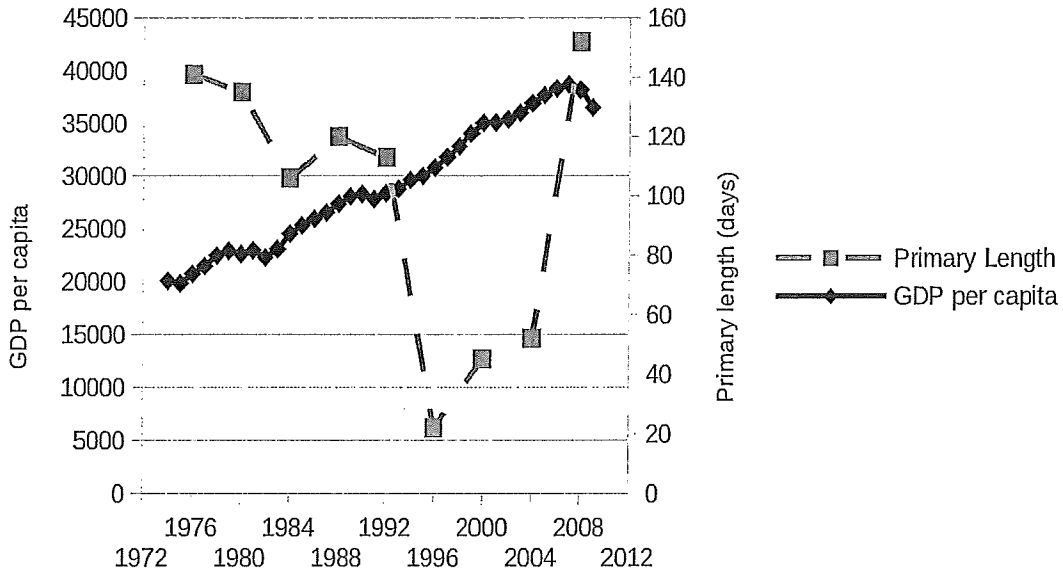


Figure 3: States that switch primary dates and GDP

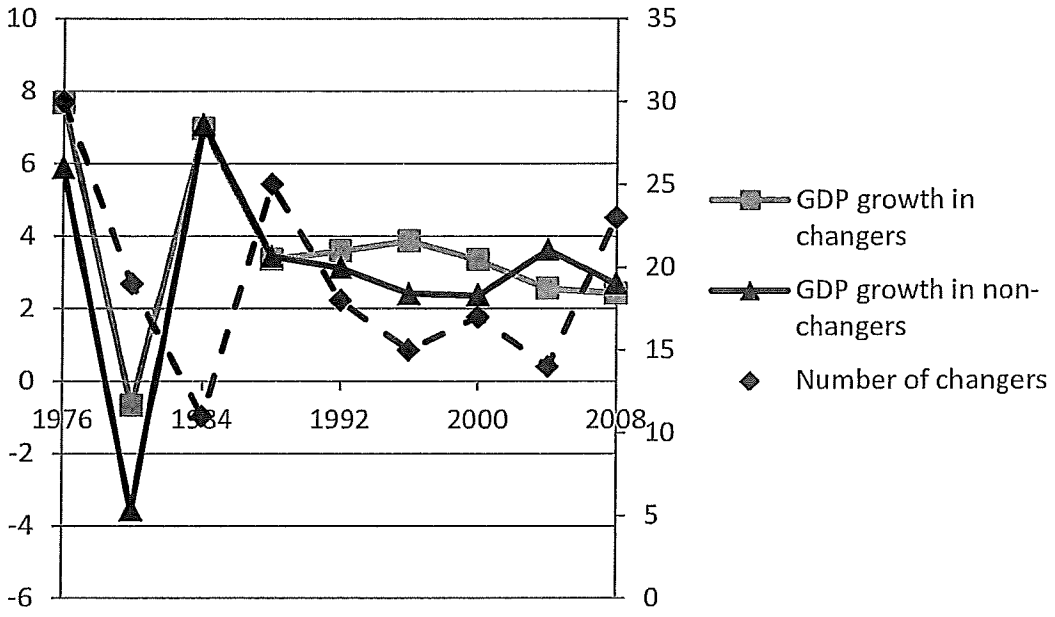


Figure 4: Primary Status Between 2004 and 2008

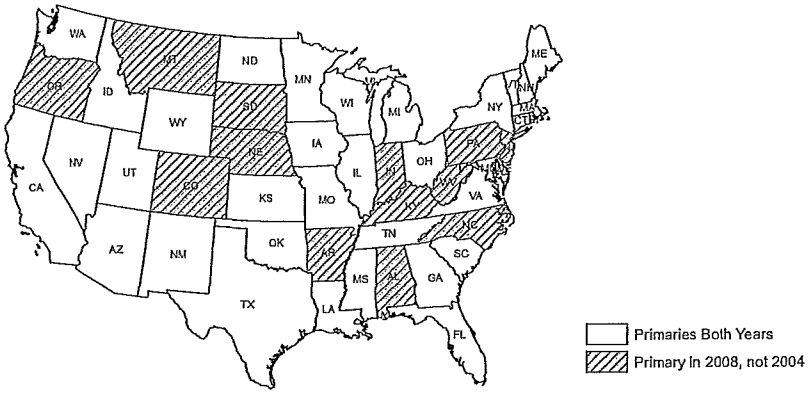


Figure 5: Changes in Expenditures from 2004-2008

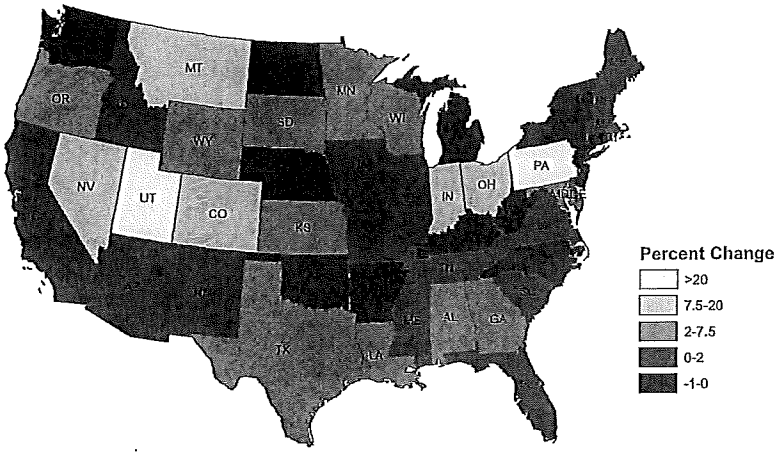


Figure 6: Campaign Expenditures and Contributions in 2004

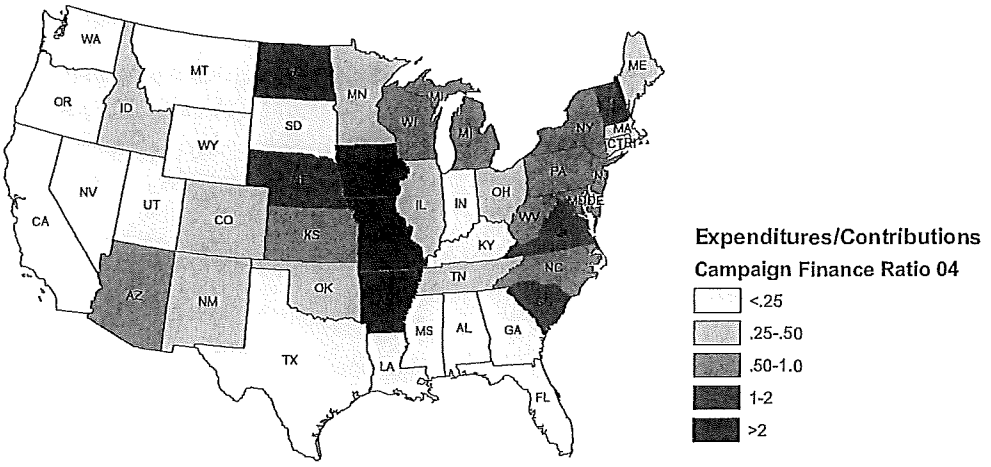
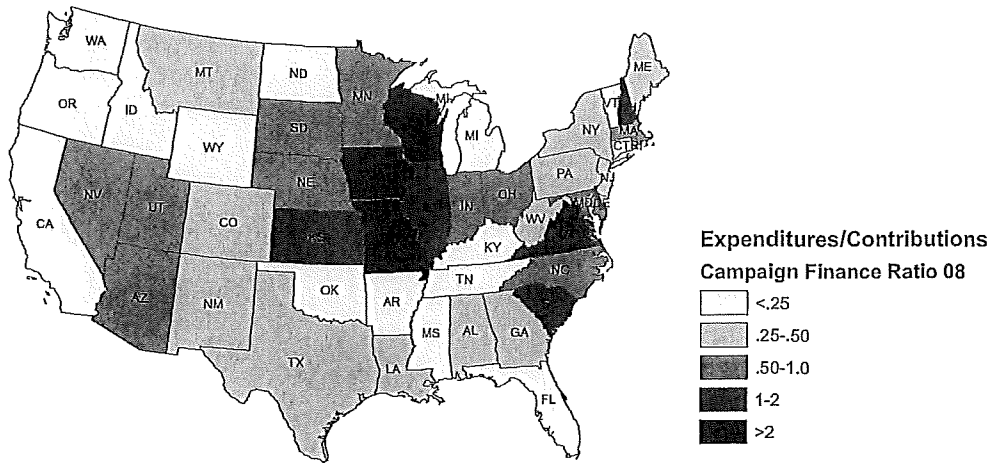


Figure 7: Campaign Expenditures and Contributions in 2008



Tables

Table 1: Dates when only one candidate remains by party

	Republicans		Democrats	
	Date Clinched	Nominee	Date Clinched	Nominee
1976	8 June	Gerald Ford	8 June	Jimmy Carter
1980	1 May	Ronald Reagan	4 June	Jimmy Carter
1984	No Contest	Ronald Reagan	5 June	Walter Mondale
1988	15 March	George H.W. Bush	7 June	Michael Dukakis
1992	No Contest	George H.W. Bush	2 June	Bill Clinton
1996	5 March	Bob Dole	No Contest	Bill Clinton
2000	9 March	George W. Bush	9 March	Al Gore
2004	No Contest	George W. Bush	11 March	John Kerry
2008	4 March	John McCain	3 June	Barack Obama

Notes: President Carter had a very low approval rating and was forced by the DNC to run in the primary in 1980. No Contest means that there were no contenders against the incumbent president.

Table 2: Spending by Primary Existence

Primary Status	Total Spending	Campaign Spending
Primary in current quarter		
Average	1,507,529	703,237
Median	423,584	222,641
25th Percentile	86,755	55,653
75th Percentile	1,487,526	721,901
Observations	89	89
Primary in next quarter		
Average	1,733,553	638,328
Median	276,206	138,157
25th Percentile	33,115	27,522
75th Percentile	1,336,009	679,948
Observations	89	89
No primary		
Average	861,762	372,993
Median	99,962	35,286
25th Percentile	16,191	4,207
75th Percentile	533,750	255,636
Observations	624	624

Total Spending includes all money spent by campaigns (in $s).
Campaign Spending removes ad and media expenditures from Total Spending.
Compares quarter/states with and without primary elections
in 2003-2004, 2007-2008.

Table 3: Primary Existence Predicts Primary Campaign Expenditures

Dependent Variable=Spending Growth		
	(1)	(2)
Primary	1.128***	1.218***
	(0.281)	(0.335)
Primary on Super Tuesday	-0.481	-0.693*
	(0.341)	(0.392)
Battleground State	-1.500***	-1.688***
	(0.222)	(0.229)
Observations	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. Column (2) includes state fixed effects.
Primary is a dummy for whether or not there is a primary campaign
in the given state and given quarter or following quarter.

Table 4: Primary Elections Increase Income Growth

Dependent Variable=Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00525***	0.00761***	0.00473**	0.000798
	(0.000678)	(0.000958)	(0.00227)	(0.000970)
Primary on Super Tuesday	-0.00399**	-0.0140***	-0.0146***	-0.00746**
	(0.00188)	(0.00316)	(0.00486)	(0.00294)
Battleground state	0.000202	-0.000194	-0.00214*	0.000474
	(0.000576)	(0.000842)	(0.00125)	(0.000736)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state
and given quarter or following quarter.

Table 5: Primary Elections Increase Income Growth (state fixed effects)

Dependent Variable = Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00528***	0.00764***	0.00497**	0.000833
	(0.000492)	(0.000635)	(0.00215)	(0.000679)
Primary on Super Tuesday	-0.00401*	-0.0137***	-0.0153***	-0.00771**
	(0.00210)	(0.00295)	(0.00400)	(0.00303)
Battleground state	0.000378	-0.000154	-0.00188*	0.000531
	(0.000509)	(0.000849)	(0.00107)	(0.000642)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 6: Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000541***	0.00134***	0.000606***
	(0.000155)	(0.000259)	(0.000215)
Battleground	0.000768	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses.
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 7: Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000520***	0.00128***	0.000586***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000222	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies and state fixed effects.

State-quarter observations. Drops IA, NH, SC.

Appendix A: Data Appendix

Table 8: Summary Statistics

	Mean	Standard deviation	Minimum	Maximum
Full Sample				
Income growth	0.0128	0.0147	-0.1020	0.1833
Services income growth	0.0209	0.0171	-0.2070	0.3299
Accommodations income growth	0.0107	0.0237	-0.4903	0.3630
Retail trade income growth	0.0110	0.0173	-0.2736	0.2800
Primary dummy	0.1011	0.3015	0	1
Super Tuesday dummy	0.0146	0.1200	0	1
Battleground dummy	0.0984	0.2978	0	1
Only for election years				
Primary dummy	0.4156	0.4930	0	1
Super Tuesday dummy	0.0600	0.2376	0	1
Battleground dummy	0.4044	0.4909	0	1
2004-2008 Sample Only				
Income growth	0.0143	0.0284	-0.0443	0.2404
Accommodations income growth	0.0110	0.0294	-0.0752	0.2158
Retail trade income growth	0.0031	0.0222	-0.0857	0.1458
Campaign spending growth	-0.4350	3.0736	-12.0499	9.3338
Campaign spending growth*	0.4401	1.7784	-8.8538	8.8708
Campaign spending growth**	-0.7289	3.3502	-12.0499	9.3338
Battleground Dummy	0.2475	0.4318	0	1
Super Tuesday dummy	0.0437	0.2047	0	1
Only for election years				
Battleground dummy	0.4950	0.5006	0	1
Super Tuesday dummy	0.0875	0.2829	0	1

* Includes only periods with primaries.

** Includes only periods without primaries.

Table 9: Variables Collected

Variable	Measured	Years	Source
Primary Dates	Date each Presidential primary was held, by state and party	1976-2008	Green Papers (for primaries) Frontloading HQ (for caucuses)
Clinch Dates	Date Presidential candidate was last remaining in contest for party nomination	1976-2008	Various sources
Battleground States	Competitive States in election based on polls (< 10 perecentage points between winner and loser)	1996-2008	Intrade Prediction markets, David Leip's Polling Report
	Competitive states in election based on ex-post results (< 10 perecentage points between winner and loser)	1976-1992	David Leip's Election Results
Income	Quarterly state earnings	1974-2008	Bureau of Economic Analysis (BEA)
Services Income	Quarterly state earnings in the "service" sector	1974-2001	BEA
Accommodations Income	Quarterly state earnings in the accommodations sector	1990-2008	BEA
Retail Income	Quarterly state earnings in the retail sector	1990-2008	BEA
Population	Annual state population interpolated by quarter	1974-2008	Census
GDP	Annual state GDP	1974-2008	BEA
Unemployment	Annual state unemployment rate	1974-2008	BLS
Campaign expenditures	All expenses by Presidential primary candidates spent in pursuit of the primary race Includes: administrative and campain expenses, i.e. hotel rooms, meals, local polling, Get-out-the-Vote, campaign events, money spent by staffers for catering meetings, rent, utilities, cable, internet, administrative supplies, staffer travel. Does not include advertisements	2004-2008	Center for Responsive Politics

Table 10: Variables Measured

Variable	Measured
Primary Dummy	Dummy Variable = 1 if there was a primary in state i in quarter t or $t+1$ based on state primary dates and clinch dates
Battleground States	Dummy Variable=1 if state i was competitive in election year, and primary nomination clinched for at least one party at time t
Primary on Super Tuesday	Dummy Variable=1 if state i had primary at time t and that day had the highest number of primary elections during that cycle
Per Capita Income Growth	$log\left(\frac{\text{Income}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Income}_{t-1}}{\text{Population}_{t-1}}\right)$
Per Capita Services Income Growth	Same as income, but only for 1974-2001
Per Capita Accommodations Income Growth	Same as income, but only for 1990-2008
Per Capita Retail Income Growth	Same as income, but only for 1990-2008
Population	Annual population data, by state (interpolated by quarter)
Spending Growth	$log(\text{Spending}_t) - \log(\text{Spending}_{t-1})$
Per Capita Spending Growth	$log\left(\frac{\text{Spending}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Spending}_{t-1}}{\text{Population}_{t-1}}\right)$

Appendix B: Election Information

Table 11: Battleground states by year

Alabama	1980, 1992, 1996
Alaska	1992
Arizona	1992, 1996, 2000, 2008
Arkansas	1980, 2000, 2004
California	1976, 1988
Colorado	1968, 1988, 1992, 1996, 2000, 2004, 2008
Connecticut	1980, 1992, 1996, 2008
Delaware	1976, 1980, 1992, 2004
Florida	1976, 1992, 1996, 2000, 2004, 2008
Georgia	1992, 1996, 2008
Hawaii	1976, 1980, 1988, 2004
Illinois	1976, 1980, 1988
Indiana	1976, 1992, 1996, 2008
Iowa	1984, 1992, 2000, 2004, 2008
Kansas	1976, 1992
Kentucky	1976, 1980, 1992, 1996
Louisiana	1976, 1980, 1992, 2000
Maine	1980, 1992, 2000, 2004
Maryland	1976, 1980, 1984, 1988
Massachusetts	1980, 1984, 1988
Michigan	1976, 1980, 1988, 1992, 2000, 2004
Minnesota	1980, 1984, 1988, 2000, 2004
Mississippi	1976, 1980, 1992, 1996
Missouri	1968, 1976, 1980, 1988, 1996, 2000, 2004, 2008
Montana	1980, 1988, 1992, 1996, 2008
Nevada	1976, 1992, 1996, 2000, 2004
New Hampshire	1992, 1996, 2000, 2004, 2008
New Jersey	1976, 1992, 2004
New Mexico	1976, 1988, 1992, 1996, 2000, 2004
New York	1976, 1980, 1984, 1988
North Carolina	1980, 1992, 1996, 2008
North Dakota	1976, 1996, 2008
Ohio	1968, 1976, 1992, 1996, 2000, 2004, 2008
Oklahoma	1976, 1992, 1996
Oregon	1968, 1976, 1980, 1988, 1992, 1996, 2000, 2004
Pennsylvania	1968, 1976, 1980, 1984, 1988, 1992, 2000
Rhode Island	1984
South Carolina	1980, 1992, 1996, 2008
South Dakota	1976, 1988, 1992, 1996, 2008
Tennessee	1980, 1992, 1996, 2000
Texas	1976, 1992, 1996
Vermont	1980, 1988, 2000
Virginia	1976, 1992, 1996, 2000, 2004, 2008
Washington	1976, 1988, 2000, 2004
West Virginia	1980, 1988, 2000
Wisconsin	1968, 1972, 1976, 1980, 1984, 1988, 1992, 2000
Wyoming	1992

Table 12: Super Tuesday states by year

Alabama	1980, 1984, 1988, 2008
Alaska	1980, 2008
Arizona	2008
Arkansas	1976, 1988, 2008
California	2000, 2004, 2008
Colorado	1996
Connecticut	1996, 2000, 2004, 2008
Delaware	1992, 2008
Florida	1980, 1984, 1988, 1992
Georgia	1980, 1984, 1988, 1996, 2000, 2004, 2008
Hawaii	1980, 1984, 1988, 2000
Idaho	1976, 2008
Illinois	2008
Kansas	1988, 2008
Kentucky	1976, 1988
Louisiana	1992
Maine	1996, 2000
Maryland	1988, 1996, 2000, 2004
Massachusetts	1984, 1988, 1996, 2000, 2004, 2008
Minnesota	1996, 2000, 2004, 2008
Missouri	1988, 1992, 1996, 2000, 2008
Montana	2008
Nevada	1976, 1984, 1988
New Jersey	2008
New Mexico	2008
New York	2000, 2004, 2008
North Carolina	1988
North Dakota	2000, 2004, 2008
Ohio	2000, 2004
Oklahoma	1980, 1984, 1988, 1992, 2008
Oregon	1976
Rhode Island	1984, 1988, 1992, 1996, 2000, 2004
Tennessee	1976, 1988, 1992, 2008
Texas	1988, 1992
Utah	2008
Vermont	1996, 2000, 2004
Virginia	1988
Washington	1980, 1984, 1988, 2004
West Virginia	2007

Appendix C: Robustness

Table 13: Per Capita Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000542***	0.00134***	0.000607***
	(0.000155)	(0.000259)	(0.000215)
Battleground State	0.000769	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 14: Per Capita Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000521***	0.00128***	0.000587***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000223	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects.
State-quarter observations. Drops IA, NH, SC.

Table 15: Results are robust restricting sample to 2004 and 2008 expenditures sample

	(1) Income	(2) Accom.	(3) Retail
Primary	0.00734***	0.0131***	0.00680***
	(0.00162)	(0.00273)	(0.00196)
Primary on Super Tuesday	-0.000656	-0.00935**	-0.00731*
	(0.00301)	(0.00443)	(0.00438)
Battleground State	-0.000263	-0.0114***	-0.00411***
	(0.00123)	(0.00188)	(0.00147)
Observations	658	658	658

Robust standard errors in parentheses

Includes quarter dummies

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

CHAPTER 23: EXPENDITURE MULTIPLIER

Consumption and Savings Function:

- Consumption is primarily a function of Yd (disposable income) or "after-tax" income. Although it is also influenced by the rate of interest, expectations about future Yd, wealth effects etc.
- if plot Consumption as a function of Yd it will have a positive vertical intercept ('autonomous consumption') and a positive slope but less than one (i.e, the slope of the consumption function is the coefficient on Yd in the Consumption equation and represents the Marginal Propensity to Consume (MPC). Therefore, $0<MPC<1$
- if plot the consumption function versus a 45 degree line (with the mathematical property that any point on the 45 degree line has the same vertical coordinate as horizontal coordinate, or $x = y$) then where Consumption intersects the 45 degree line is referred to as "breakeven level of Yd".
- at $Yd < Yd$ breakeven, then $C > Yd$ (the individual is 'dissaving' as savings <0)
- at $Yd > Yd$ breakeven, then $C < Yd$ and the individual is "saving", Savings >0.
- the Savings function is derived from the consumption function (if the consumption function changes then so does the savings function). For example, if

  $C = a + b(Y - T)$ where $a>0$, $0<b<1$ and $Yd= Y-T$

  then the implied savings function is:

  $S = -a + (1-b)(Y - T)$ where $(1-b) = MPS$ (marginal propensity to save)

Note: $MPC + MPS = 1$

- Mathematical example:

  if $C = 1000 + 0.80(Y - T)$ then the implied savings function is:

  $S = -1000 + 0.20(Y - T)$

where $MPC = 0.80$ and $MPS = 0.20$. See the graphs pg. 529

Effects of other variables on Consumption function:

- if the interest rate falls or expected future disposable income increases, then the consumption function shifts upwards and the implied savings function shifts downwards (see pg. 531)

Other Components of Aggregate Expenditure (AE):

i) Investment function:

- depends on interest rate, expected future profits. Not related to current GDP or Yd. Therefore, if we plot the investment function in diagram with Investment expenditures on the vertical axis and real GDP on the horizontal axis, the Investment (I) line is horizontal at I_0. That is, we assume that:

  $I = I_0$.

ii) Government expenditures:

- changes in government expenditures (G) or taxes (T) represents a "fiscal policy" decision of the federal government. Therefore, a change in G is a policy choice and does not respond automatically to the level of GDP (Y). So in a diagram, G is also assumed to be autonomous,

  $G = G_0$.

iii) Exports:

- exports represent Canadian goods sold abroad. The level of exports will depend primarily on the Canadian price level (P), foreign price level (Pf), the exchange rate (E) and foreign GDP (Yf). Therefore, once again, X does not respond to the level of Canadian GDP so exports are

autonomous.

$$X = X_0.$$

iv) Imports:

- n depends on relative prices (Canadian and foreign prices), the exchange rate (E), and Canadian GDP (Y). As GDP (Y) increases, we buy more goods and services and some of these will be imported from the rest of the world. Therefore,

  Imports (M) = m Y where $0<m<1$ and m=MPM (marginal propensity to import)

Aggregate Expenditure function (AE):

- n will have a positive intercept (see graph pg. 534)
- n the slope of the AE function is given by:
  - n slope of AE = MPC (1-t) - MPM where $0<t<1$ and t represents the tax **rate**
- n Note if we have lump sum taxes, T = To (a constant) then t=0 and the slope of the AE function is just = MPC - MPM

- n Numerical Example:

  If MPC = 0.80, MPM = 0.10 and t = 0.25 then the slope of the AE function is:
  slope of AE = 0.80 (1 - 0.25) - 0.10
  slope of AE = 0.50

Equilibrium GDP (Y):

- n when AE = Y (planned spending = production) we have an equilibrium
- n graphically this occurs anywhere along the 45 degree line with AE on the vertical axis and real GDP (Y) on the horizontal axis. Specifically, the equilibrium is where the given AE function intersects the 45 degree line. (see pg. 536)

Calculation of Equilibrium GDP (Y):

- n Suppose you are given the following equations:

  C = 1000 + 0.80 (Y- T)
  I = 180
  G = 100
  X = 200
  M = 0.20 Y
  T = 100

- n To find equilibrium GDP, follow these steps:
- n **Step 1**: Calculate the AE equation by adding C, I G, X and M together and substitute the T value into the consumption equation

  AE = C + I + G + X - M
  so AE = 1000 + 0.80(Y -100) + 180 + 100 + 200 - 0.20 Y
  or AE = 1400 + 0.60 Y

-**Step 2:** Impose the equilibrium condition, AE = Y

so 1400 + 0.60 Y = Y

and since the equilibrium condition has been imposed, the value of Y solved for is then equilibrium Y.

- **Step 3:** Solve for equilibrium GDP

  $0.40\ Y = 1400$

  so $Y = 3500$

The Multiplier:

- the definition of the multiplier is: $\text{multiplier} = \frac{\text{change in equilibrium Y}}{\text{change in autonomous spending}}$

- the formula for the expenditure multiplier is: $\text{multiplier} = \frac{1}{1 - \text{slope of AE function}}$

Example: If the MPC = 0.80, t = 0, and MPM = 0.05 then
the slope of the AE function is = 0.75 and the multiplier is = 4
Therefore, for everyone $1 increase in spending (whether it be from C, I, G, X) it will generate a $4 increase in equilibrium GDP.

- continuing the example from above where equilibrium Y = 3500, if full employment GDP (Y*) = 4300 then in order to get to full employment GDP the government could increase its spending by 200 (once subject to the multiplier, the overall increase in GDP is going to be $800 bringing the new equilibrium GDP level to $4300 (=Y*)

The Lump sum Tax multiplier:

- if the government has a lump sum tax (so the tax rate, t = 0),then a $1 increase in taxes would reduce Consumption expenditures by the value of the MPC (eg 0.80). This reduction in expenditures is then subject to the multiplier. The end result is that when taxes (T) change, equilibrium GDP changes according to the value of the tax multiplier,
- definition of the tax multiplier: $\text{tax multiplier} = \frac{-\text{MPC}}{1 - \text{slope of the AE function}}$

Example:
If the MPC = 0.80, t = 0 and MPM = 0.05 then the tax multiplier is:

$$\text{tax multiplier} = \frac{-0.80}{1 - 0.75}$$

then the tax multiplier is -3.2
The tax multiplier is always a negative number because from the definition of the tax multiplier above, we know that if taxes increase (decrease), then real GDP will decrease (increase) so the tax multiplier is negative.

- you use the tax multiplier to determine the required change in taxes to bring about full employment GDP. Suppose again that Y (eq'l) = 3500 and Y* = 4300 and the tax multiplier is -3.2

then from the definition of the tax multiplier:

$$\text{tax multiplier} = \frac{\text{change in equilibrium GDP}}{\text{change in taxes (lump sum)}}$$

so if the tax multiplier is -3.2 and to get to full employment GDP we want the change in equilibrium GDP to be +$800, then the change in taxes should be = 800/-3.2 or = -$250

The Multiplier and the Price Level:

- n the price level (P) was held constant in deriving the AE function. Therefore, if the price level changes it will shift the AE curve (due to the wealth effect and the substitution effects, see page 543).
- n specifically, if the price level increases, AE shifts down (the increase in price reduces real wealth and encourages international and intertemporal substitution so consumption expenditures decrease and imports increase lowering equilibrium GDP). See graphs on page 544.

Derivation of the AD curve:

- n can derive the AD curve (from chapter 22) by changing the price level and tracing out what happens to equilibrium GDP following the shift in the AE curve. See page 544.
- n we can also trace out the effects of changes in other variables (eg changes in the interest rate or exchange rate etc) on the AD curve itself. See page 545. If the AE curve shifts upwards due to any effect but a change in price, then the AD curve will shift in response. See page 545.

Note: you should read over the Appendix to Chapter 23 (the mathematical note at the end of the chapter).

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate increased annual operating costs starting at about $67,000. Local governmental entities estimate no impact to operating costs. Any potential impact to state and local governmental revenues is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-059)

Subject

Initiative petition from Aaron Willard regarding a proposed constitutional amendment to Article X. (Received November 12, 2013)

Date

November 26, 2013

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Aaron Willard provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources. Section 1(e) of the proposal, requiring the state to pay attorneys' fees and costs of a prevailing plaintiff, has the potential to result in unknown costs to the state legal expense fund.

Officials from the **Department of Economic Development** indicated:

"Unknown negative fiscal impact."
This state constitutional amendment:

1) Has no fiscal impact because it is unconstitutional;
2) Has a negative fiscal impact because it reduces the state income tax; or
3) Has a negative fiscal impact because it caps state tax credit issuances on already approved projects.
4) Has an unknown negative fiscal impact because it reduces the amount of revenue generated by DED's collection of fees.

DoR is required by the Federal Constitution, dormant commerce clause, to credit certain out of state taxes paid. This dormant commerce clause requirement is met by Sections 143.081; 144.450; and 144.030 RSMo; which credit taxes, or exempt transactions made out of state in certain instances. It would be up to the courts to determine if being "…allowed a credit against the tax otherwise due… for the amount of any income tax imposed… by another state…" is the same thing as authorizing or approving a tax credit, but it is ambiguous enough for someone to question it. If the courts determine that the Sections above are tax credits within the meaning of this amendment, then the amendment is unconstitutional if it is read as a hard cap on tax credits.

If the amendment is deemed constitutional, then there are issues with how it should be interpreted and implemented. The sentence that reads: "The General Assembly and all state executive agencies and departments shall not issue, authorize or approve a cumulative amount of tax credits in excess of $200 million per state fiscal year." Seems to be an absolute bar on new tax credits in excess of $200M, but the remaining language seems to imply that the $200M cap is optional and the consequence of breaking the cap is a reduction in the income tax rate. Entitlement programs are still entitlement programs even after this amendment is passed, so what happens if the HTC and entitlement portion of MO Works program exceed $200M in a given year (not to mention any other entitlement tax credit programs). Would DED be required not to issue any tax credits? Or can DED deny HTC applications because $200M cap has been exceeded?

In addition, DED has authorized and approved several million in HTC tax credits, (not to mention other programs). However, this language opens the state to liability if DED is barred from issuing tax credits that have already been authorized and approved. It is possible that the state will still be obligated via the outstanding authorizations. Thus,

approved applicants could have a cause of action in which to sue the state for non-performance of a contract.

The amendment does not state which agency will be responsible for determining which programs will be affected by the decreased cap. Tax credits are not only issued and authorized by DED. Rather several different agencies and divisions issue tax credits (DOR, DHSS, Division of Energy). What agency will be in charge of either maintaining the cap or deciding to cut various incentive programs?

Due to the numerous questions presented as a result of this proposed amendment DED is unable to determine the exact fiscal impact; however, for the reasons stated above we assess an unknown negative impact.

Officials from the **Department of Elementary and Secondary Education** indicated:

A portion of this proposal would appear to limit the cumulative amount of tax credits. In general, tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students. Therefore, limiting tax credits would generally benefit public schools.

Should the tax credit limit be exceeded, this proposal would appear to reduce the individual income tax. Our department has no means to calculate the amount of such reduction; however, a reduction in the state's revenue stream will reduce the amount of money available for public schools and all public school students.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, may have an unknown increase to state premium tax collections due to the possible cap on tax credits issued. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by the potential limitations of tax credits issued.

Officials from the **Department of Corrections** indicated this initiative petition has no impact on their department.

Officials from the **Department of Revenue** indicated this proposal would increase personal service and expense and equipment costs for their department by $254,334 for fiscal year 2015, and $206,328 for fiscal year 2016.

The IT portion of the fiscal impact is estimated with a level of effort valued at $13,633. The value of the level of effort is calculated on 504 FTE hours.

If cumulative tax credits exceed $200,000,000 after the effective date of this amendment, the state individual income rate will be reduced by the reduction factor sufficient to reduce tax collections by the amount in excess of the $200,000,000. Because there is no specific effective date, it will most likely reduce state revenues in the fiscal year the voters approve the petition. Because tax credits will have already been issued, authorized, or approved, it may reduce state revenues by an estimated $273 million to $825 million beginning the following tax year. Due to the amount of tax credits issued, authorized and approved, this will occur in the immediate tax year following voter approval of this amendment. The total impact to state revenues in the immediate tax year following voter approval and subsequent years thereafter will depend on the amount of tax credits authorized, issued, or approved.

This petition may significantly reduce state revenues by reducing the individual income tax rate.

Section 1: Income Tax Reduction

Section 1 limits tax credits in any fiscal year to $200 million. If cumulative tax credits exceed $200 million, the amendment permanently reduces individual income tax by the "reduction factor." The reduction factor, at least a quarter percent, is the percentage required to sufficiently reduce individual income tax collections by the cumulative amount of tax credits issued over $200 million.

Based on the Fourth Quarter FY 2013 Department Tax Credit Report, the value of tax credit redemptions amounted to $512.9 million. The amount of tax credits authorized in FY 2013 was $551.9 million. The amount of tax credits issued in FY 2013 was $358.6 million. The amount of tax credits issued, authorized, or approved in FY 2013, was $825 million over the threshold established in this amendment. Using these numbers, the potential negative impact of a reduction in the individual income tax rate may be between $272,518,747 and $824,419,222 in the first effective year.

These calculations are based on the number of tax credits approved and redeemed in FY 2013 only. It cannot be determined whether the amount of tax credits authorized, issued or approved will remain constant upon the passage of this amendment.

Personal Tax:

If income tax rates change, Personal Tax will need one (1) Revenue Processing Technician per 19,000 additional errors, and one (1) Revenue Processing Technician per 2,400 pieces of correspondence.

Withholding Tax:

If income tax rates change, withholding tables require updating. This will require sufficient time to make changes to any forms, applications, or online postings.

Collections & Tax Assistance (CATA):
CATA will require two (2) Tax Collection Technicians with CARES equipment and (1) Revenue Processing Technician with CARES equipment to respond to additional contacts in regard to reduced individual income tax rates and adjustments due to the expiration of tax credits.

ITSD-DOR**:**
Because the amendment triggers a permanent reduction of state individual income tax rates with issuing, authorizing, or approving tax credits after the effective date of this amendment, ITSD requires 504 FTE hours to make necessary program changes valued at $13,633.

Legal:
The department does not estimate that it will incur any legal expenses under Section 1(e) because it assumes that any litigation will be conducted by the Attorney General's Office.

DOR officials made the following additional comments:

Section 1:
Section 1(a) provides for the reduction in the rate of the individual income tax if agencies "issue, authorize or approve" tax credits over $200 million. It could create uncertainty as to whether a particular tax credit is issued, authorized or approved. Some tax credits are "claimed" on a tax return when the taxpayer satisfies all statutory requirements. These "claimed" tax credits may be included in the provision because the General Assembly "authorized" the tax credit when it enacted the statute. The term "approved" is vague. It is unclear how this term relates to "issued" and "authorized" and may lead to potential litigation.

It is unclear if the rate reduction applies to the rates in all income tax brackets. It is also unclear whether the limit is calculated on the highest of "issued, authorized, or approved," or the aggregate of all three.

It is unclear which state agency will be responsible for monitoring the tax credits issued, authorized or approved that exceed the $200 million allowed each fiscal year under this amendment. Additionally, this amendment does not indicate how existing credits will be reduced to remain under the $200 million dollar threshold. Many of the tax credits are authorized at the beginning of a fiscal year, but are redeemed by tax year. This may result in a lack of funding for tax credits issued or authorized before the effective date of this amendment.

Section 1(e) provides that a taxpayer may bring suit against the state in a circuit court of proper venue. The department assumes that the Attorney General's office will act on behalf of the department, incurring costs.

Officials from the **Department of Public Safety** indicated no fiscal impact to their department.

Officials from the **Department of Social Services** indicated this proposed constitutional amendment limits the cumulative amount of state tax credits issued, authorized, or approved to $200 million per state fiscal year. If this limit is exceeded, the individual income tax rate must be reduced to yield a corresponding amount. If, at the time the limit is exceeded, the income tax rate is more than 0.25%, the "reduction factor" is determined by calculating the amount by which the tax credits exceed $200 million and converting this amount to a percentage of the income tax rate rounded up to the nearest one-quarter percent. However, if at the time the limit is exceeded, the rate of the individual income tax rate is 0.25% percent or less, the individual income tax shall be permanently eliminated and the General Assembly shall have no authority to impose a tax on the income or earnings of any individual.

All tax credits issued after the effective date of the amendment must be redeemed within five years of the date of issuance.

Any taxpayer has standing to bring suit in circuit court to enforce this constitutional provision. If the taxpayer prevails, the state is liable for the taxpayer's costs, including reasonable attorney's fees.

This amendment could affect total state revenue, but it is impossible to predict the fiscal impact to any one state department, including the Department of Social Services (DSS), because the funding available to DSS in any given year is dependent on the appropriations process.

Officials from the **Governor's Office** indicated no fiscal impact to their office.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated:

This proposal provides that the General Assembly and state agencies shall not issue, authorize or approve a cumulative amount of tax credits that exceeds $200M in any fiscal year. If exceeded, the existing income tax rate shall be permanently reduced by a "reduction factor," defined as the percentage, rounded up to the nearest 0.25 percent, sufficient to reduce tax collections by the amount of the tax credit excess.

This proposal will have no impact on the Office of Administration.

Budget & Planning (BAP) notes that the DOR has reported the following amounts related to tax credit activity over the last three fiscal years:

Fiscal Year	Authorized	Issued	Redeemed
2011	339.0	421.4	545.2
2012	528.4	416.9	629.3
2013	551.9	358.6	512.9

Figures do not include Enterprise Zone Modifications.

Figures do include retained withholdings under various programs.
"Authorized" and "Issued" columns do not include DOR credits redeemed directly on the tax form.
The largest of these is the Senior Property Credit, which has average redemptions over $115M.

Also, BAP estimates a 0.25% reduction in the top marginal rate of 6% could reduce general and total state revenues by more than $170M. However, BAP notes these caveats:

- The proposal requires "the existing rate of the individual income tax" to be permanently reduced. However, there are ten distinct marginal tax rates for individuals currently in statute, ranging from 1.5% to 6%. It is unclear if all the rates, or only the top rate, should be reduced. If all the marginal rates are reduced, then each 0.25% reduction could reduce general and total state revenues over $220M.
- This estimate is based on net income tax liabilities for tax year 2011. However, the proposal refers to "tax collections," which might mean gross collections are to be used for this calculation.

BAP notes there are several other concerns that do not allow for a more precise estimate of the fiscal impact of this proposal. These include, but are not limited to:

- It is unclear which agency is required to administer the $200M cap and any subsequent allocation of available credits among the various programs, including the largest programs such as Low Income Housing, Historic Preservation, and the Senior Property Credit. It is also unclear what the ultimate outline of any such allocation might be.
- The term(s) "issue, authorize, or approve" are not clearly defined. For instance, it is unclear if the term "approved" is similar to the term "authorized" or has a different meaning, such as "redeemed."
- Some tax credit programs require multiple endorsements before they are finally redeemed. In some cases, a particular tax credit may be "authorized" for a project, but not finally "issued" until many months later. It is unclear from this proposal how the credits with multiple endorsements are to be counted toward the proposed cap, or if they count multiple times. Similarly, a tax credit that is "authorized" and "issued" in the same fiscal year could count toward the proposed cap for that fiscal year twice.
- Subsection (d) requires tax credits issued after this amendment is approved to be redeemed within five years of the date of issuance. This would supersede the statutes of some existing programs that allow for a longer period between issuance and redemption.
- Even if the tax credit cap is exceeded by as little as $1, the "reduction factor" could result in forgone revenues exceeding $170M.

Officials from the **Office of State Courts Administrator** indicated no fiscal impact to their office.

Officials from the **Office of the Secretary of State** indicated they are is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **Cole County** indicated they cannot cite to a specific dollar amount cost, but:

One concern is that because this Amendment applies to county governments too, it could have an effect on local governments' abilities to fund economic development through property tax credits for eligible businesses in Enhanced Enterprise Zones (sections 135.950 to 135.973, RSMo).

This Amendment has the potential to reduce state revenues, which in turn could affect the state money that comes to Cole County, particularly funding and grants for the Health Department, Sheriff's Office, and roads and bridges.

Officials from the **City of Columbia** indicated at this time, the city cannot identify a specific fiscal impact. It seems possible, however, that if tax credits are limited, the possibility of supporting local development projects could be scaled back. If state General Revenue decreases due to reduced income tax liability, grants and other state assistance for local programs could diminish.

Officials from the **City of Jefferson** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated curtailing the issuance of tax credits may impact future economic development projects in the city. Reducing the individual income tax following issuance of such credits would have no direct impact on the city, but could lead to a reduction of state grant funds (depending on how such revenue reductions impacted state programs). Amounts of such reductions unknowable.

Officials from the **Hannibal School District No. 60** indicated the petition may have a significant negative impact on state revenue and education in particular by limiting and/or reducing the tax credit and rates. They indicated they opposed the petition.

Aaron Willard provided the following information as a proponent of this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that I filed on November 12, 2013.

The proposed measure requires the individual income tax to be reduced by a certain percentage if the general assembly issues, authorizes or approves tax credits in excess of $200 million. It is assumed that the general assembly will not issue tax credits in excess of $200 million in order to maintain the current individual income tax rate.

General and total state revenues will increase as a result of the reduction in total state tax credits being issued, authorized or approved. Fiscal impacts for previous legislative proposals limiting tax credits have based savings on the average amount issued.[1]

Tax Credit Summary				
	FY 10	FY 11	FY 12	AVERAGE
Authorized	451,078,559.57	332,560,993.13	469,881,478.06	417,840,343.59
Issued	419,708,794.74	441,785,541.44	401,442,295.79	420,978,877.32
Redeemed	493,170,570.86	528,160,183.40	615,896,450.42	545,742,401.56
TOTAL	1,363,957,925.17	1,302,506,717.97	1,487,220,224.27	1,384,561,622.47

Source: Report of the Missouri Tax Credit Review Commission, available at http://tcrc.mo.gov/pdf/2012-tcrc-report.pdf

The average amount issued over Fiscal Years 2010-2012 is $420,978,877.32. That number would be reduced to just under $200,000,000 under the proposed measure. That translates into a savings to state general revenue in the amount of $220,978,877.32 annually. In addition, the savings accumulates each year – in just five years, the savings would amount to more than $1 billion for the state.

[1] http://www.moga.mo.gov/oversight/OVER11/fispdf/0708-01N.ORG.PDF (Attached hereto as Appendix A).

In addition, it takes a number of state employees to manage the current tax credit programs. The state should save significant amounts and eliminate several FTEs as a result of authorizing or issuing less than half of the tax credits that are issued now.

Opponents may argue that this measure would have significant cost related to the reduction of the income tax rate. However, even if the state chose to issue $400 million in tax credits, then the income tax would only be reduced by one quarter of one percent, resulting in approximately $200 million less in income tax revenue.

Individual Income Tax	
Individual Income Tax Collection	5,851,271,599.00
Less Refunds	915,901,718.00
Less Senior Citizen Refunds	117,603,638.00
	4,817,766,243.00
Divide Tax Collections by 6% - Tax Base	80,296,104,050.00
Multiply by .25%	$200,740,260.13

Conclusion

The proposed measure would have a significant costs savings to state government. In just one year, the state savings could be over $220 million dollars. In addition, there would be substantial savings due to the reduction in resources needed to administer tax credit programs. We submit the following proposed statement of fiscal impact:

> It is estimated this proposal will result in a savings to state government of at least $220 million annually. The proposal will have no impact on local governments.

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0708-01
Bill No.: SB 185
Subject: Tax Credits
Type: Original
Date: March 22, 2011

Bill Summary: This proposal imposes a sunset upon all tax credit programs not currently subject to a sunset provision.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	$0	$0	$493,808,566
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$493,808,566**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Budget and Planning (BAP)** assume the proposed legislation should not result in additional costs or savings to BAP. This proposal places a sunset of January 1, 2013, on all tax credit programs that do not currently have a sunset. This proposal may reduce tax credit redemptions a small amount in FY 2013, and more so in FY 2014, depending on which programs are ultimately renewed. This proposal may increase general and total state revenues. This proposal may reduce economic activity associated with the sunset programs, but BAP does not have an estimate of lost revenues.

BAP notes the various administrative agencies did not list sunset dates for the following programs in their budget submissions for FY 2012:

Program	FY 10 Redemptions
Low Income Housing	142,141,458
Property Tax	118,594,589
Historic Preservation	108,064,200
Brownfield Remediation Tax	17,590,273
Infrastructure Development	13,970,215
Affordable Housing Assistance	11,647,956
Neighborhood Assistance	10,065,992
BUILD	8,306,413
Missouri Health Insurance Pool	7,896,391
Neighborhood Preservation	6,739,123
Examination Fees and other fees	5,227,134
Youth Opportunities	4,405,158
New Enhanced Enterprise Zone	2,916,392
Bank Franchise Tax Credit (Refundable)	2,013,584
Adoption Tax (Special Needs)	1,894,187
Bank Tax Credit for S Corporation Shareholders	1,823,612
Brownfield Jobs and Investment	1,593,271
Development Tax	1,589,618
Rebuilding Communities	1,553,894
Self-Employed Health Insurance	1,517,004
Domestic Violence Tax	789,750
Maternity Home	761,650
Missouri Property & Casualty Guarantee Association	592,308
Children in Crisis	420,857

ASSUMPTION (continued)

Small Business Incubator	219,014
Wine and Grape Production	112,057
Shared Care Tax	106,086
New Enterprise Creation	77,098
Disabled Access	12,526
Family Development Account	3,000

Officials at the **Department of Revenue** (**DOR**) assume that to the extent tax credits are not re-authorized and allowed to sunset per this legislation, an unknown, positive impact will result for Total State Revenue. The following represents tax credit redemptions of tax credits administered by DOR in FY10:

Bank Franchise Tax Credit $2,013,584
Bank Tax Credit for S Corporation Shareholders $1,823,612 ($2,470,250 outstanding credits)
Residential Dwelling Accessibility Tax Credit $23,040
Disabled Access $12,526 ($67,086 outstanding credits)
Food Pantry $793,734 ($229,531 outstanding credits)
Peace Office Surviving Spouse $22,636
Self-employed health insurance $1,517,004
Senior Citizen Property $118,594,589
Special Needs Adoption $2,315,044 ($4,892,937 outstanding credits)

If each of the credits noted above were eliminated, DOR assumes an amount similar to the FY10 redemption would be saved each fiscal year after the effective date. However, taxpayers that owned credits noted above as outstanding credits, could redeem those credits after January 1, 2013.

Officials at the **Department of Economic Development's Missouri Housing Development Commission** (**MHDC**) assume this bill could potentially result in the elimination of the two tax credit programs administered by MHDC (Mo. LIHTC and AHAP). However, the fiscal impact to the state is unknown at this time, because it would be dependent on the future actions of the General Assembly. Even if the tax credit programs were not re-authorized, there would still be on-going costs associated with the programs due to carry-forward provisions and because the Missouri Low Income Housing Tax Credit (Mo. LIHTC) is a 10 year credit. If no new credits were authorized after 1/1/2013, the state would not see a fiscal impact until at least FY15. Also, while there is no fiscal impact to the state of applying a sunset clause, it would result in a reduction in the efficiency of the Mo. LIHTC, because uncertainty about the future of the program would reduce the price investors would be willing to pay for the credit.

ASSUMPTION (continued)

Officials at the **Department of Economic Development's Business and Community Services Division** assume and unknown fiscal impact.

Officials at the **Department of Health and Senior Services** assume this bill would sunset the Shared Care Tax Credit Program established in Section 660.055, RSMo, effective January 1, 2013. In FY 2010, there were 246 claimants who redeemed $106,068 from this tax credit. Assuming a similar amount of claims would continue in

the future, DHSS assumes approximately $106,068 would not be issued and redeemed in FY 2014 if the tax credit is not re-authorized.

Officials at the **Department of Elementary and Secondary Education** assume that imposing a sunset on tax credits could have a positive impact on the state's tax revenue and on schools.

Officials at the **Department of Agriculture** and the **Department of Social Services** assume that there is no fiscal impact from this proposal.

Oversight assumes this proposal would sunset the tax credits listed in this proposal on August 28, 2013. Oversight assumes any income to the state from tax credits sunset and the taxes being collected will start in September of 2013. However, since it is possible for the agency to issue all of the tax credits before this proposal sunsets, Oversight will only show the savings in FY 2014. Oversight assumes the future claiming of the tax credits will remain constant over the upcoming fiscal years. Oversight for the fiscal note is showing the amount of increased revenue to the State as the average amount issued over the last five years.

FISCAL IMPACT - State Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
Revenue - sun setting of the tax credits and the taxes being collected.			
Low-Income Housing	$0	$0	$129,432,296
Property Tax	$0	$0	$105,308,577
Historic Preservation	$0	$0	$133,069,055
Brownfield Remediation	$0	$0	$20,739,465
Infrastructure Development	$0	$0	$24,625,997
Affordable Housing Assistance	$0	$0	$7,925,546
Neighborhood Assistance	$0	$0	$12,277,756
BUILD	$0	$0	$7,230,977
Missouri Health Insurance Pool	$0	$0	$8,994,728

Neighborhood Preservation	$0	$0	$5,908,468
Exam Fee	$0	$0	$10,987,629
Youth Opportunities	$0	$0	$4,894,979
Enhanced Enterprise Zone	$0	$0	$2,161,477
Bank Franchise	$0	$0	$2,209,248
Adoption/Children in Crisis	$0	$0	$2,780,552
Bank S Corp	$0	$0	$1,507,338
Brownfield Jobs	$0	$0	$1,844,203
Development Tax	$0	$0	$1,574,478
Rebuilding Communities	$0	$0	$1,703,581
Self-Employed Health	$0	$0	$1,428,578
Domestic Violence	$0	$0	$908,288
Maternity Home	$0	$0	$1,073,704
MO Property & Casualty	$0	$0	$4,591,780
Small Business Incubator	$0	$0	$288,584
Wine & Grape Production	$0	$0	$157,579
Shared Care	$0	$0	$150,900
New Enterprise Creation	$0	$0	$0
Disabled Access -Small Business	$0	$0	$21,403
Family Development Account	$0	$0	$11,400
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0**	**$0**	**$493,808,566**

FISCAL IMPACT - Local Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act sunsets all tax credit programs, which are not currently subject to the Missouri Sunset Act, effective January 1, 2013.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Budget and Planning
Department of Agriculture
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Revenue
Department of Social Services

Mickey Wilson, CPA
Director
March 22, 2011

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Labor and Industrial Relations,** the **Missouri House of Representatives,** the **Department of Transportation,** the **Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

The potential costs or savings to state and local governmental entities is unknown. Legislative, administrative and potential legal decisions made will impact the dollar amount of tax credits issued, authorized or approved and what if any reduction will occur in the individual income tax rate(s).

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-060)

Subject

Initiative petition from Aaron Willard regarding a proposed constitutional amendment to Article X. (Received November 12, 2013)

Date

November 26, 2013

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College,**

Aaron Willard provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated:

"Unknown negative fiscal impact."
This state constitutional amendment:

1) Has no fiscal impact because it is unconstitutional;
2) Has a negative fiscal impact because it reduces the state income tax; or
3) Has a negative fiscal impact because it bars state tax credit issuances on already approved projects.
4) Has an unknown negative fiscal impact because it reduces the amount of revenue generated by DED's collection of fees.

DoR is required by the Federal Constitution, dormant commerce clause, to credit certain out of state taxes paid. This dormant commerce clause requirement is met by Sections 143.081; 144.450; and 144.030 RSMo; which credit taxes, or exempt transactions made out of state in certain instances. It would be up to the courts to determine if being "…allowed a credit against the tax otherwise due… for the amount of any income tax imposed… by another state…" is the same thing as authorizing or approving a tax credit, but I think it is ambiguous enough for someone to question it. If the courts determine that the Sections above are tax credits within the meaning of this amendment, then the amendment is unconstitutional if it is read as a hard cap on tax credits.

If the amendment is deemed constitutional, then there are issues with how it should be interpreted and implemented. The amendment seems to be an absolute bar on new tax credits, but the remaining language seems to imply that the bar is optional and the consequence of breaking the bar is a reduction in the income tax rate. Entitlement programs are still entitlement programs even after this amendment is passed. Would DED be required not to issue any tax credits?

In addition, DED has authorized and approved several million in HTC tax credits, (not to mention other programs). However, this language opens the state to liability if DED is barred from issuing tax credits that have already been authorized and approved. It is possible that the state will still be obligated via the outstanding authorizations. Thus, approved applicants could have a cause of action in which to sue the state for non-performance of a contract. If an applicant was successful in their suit against DED and DED was made to issue the tax credits by a court order would that trigger the income tax reduction? If so, that would be a negative impact on DED because of the loss of revenue to the state.

The amendment does not state which agency will be responsible for determining which programs will be affected by the decreased cap. Tax credits are not only issued and

authorized by DED. Rather several different agencies and divisions issue tax credits (DOR, DHSS, Division of Energy). What agency will be in charge of either maintaining the cap or deciding to cut various incentive programs?

Due to the numerous questions presented as a result of this proposed amendment DED is unable to determine the exact fiscal impact; however, for the reasons stated above we assess an unknown negative impact.

Officials from the **Department of Elementary and Secondary Education** indicated:

A portion of this proposal would appear to limit the cumulative amount of tax credits. In general, tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students. Therefore, limiting tax credits would generally benefit public schools.

Should the tax credit limit be exceeded, this proposal would appear to reduce the individual income tax. Our department has no means to calculate the amount of such reduction; however, a reduction in the state's revenue stream will reduce the amount of money available for public schools and all public school students.

Officials from the **Department of Health and Senior Services** indicated:

The department defers to OA-Budget and Planning to estimate the fiscal impact on Total State Revenue.

Participants in the Shared Care Tax Credit program, authorized by Section 660.055, RSMo, are certified by Division of Senior and Disability Services staff. If voters approve this initiative petition, the impact of this proposal is unknown at this time as a mechanism for tracking the tax credits issued and their amount is not identified.

The department defers to OA-Budget and Planning to estimate the fiscal impact of this initiative petition.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, may have an unknown increase to state premium tax collections due to the possible cap on tax credits issued. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by the potential limitations of tax credits issued.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Corrections** indicated this initiative petition has no impact on their department.

Officials from the **Department of Public Safety** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this proposal would increase personal service and expense and equipment costs for their department by $254,334 for fiscal year 2015, and $206,328 for fiscal year 2016.

This may reduce the amount of tax credits available to small businesses.

The IT portion of the fiscal impact is estimated with a level of effort valued at $13,633. The value of the level of effort is calculated on 504 FTE hours.

If cumulative tax credits exceed those already authorized, issued, or approved on the effective date of this amendment, the state individual income rate will be reduced by the defined reduction factor sufficient to reduce tax collections by the amount in excess of the credits that were issued, authorized, or approved prior to the effective date. Because the petition includes no specific effective date, it will most likely reduce state revenues in the fiscal year the voters approve the petition. Because tax credits will have already been issued, authorized, or approved, it may reduce state revenues by an estimated $473 million to $1,024 billion in the first effective year in the immediate tax year following voter approval of this amendment. The total impact to state revenues in the immediate tax year following voter approval and subsequent years thereafter will depend on the amount of tax credits authorized, issued, or approved.

This petition may significantly reduce state revenues by reducing the individual income tax rate.

<u>Section 1: Income Tax Reduction</u>
Section 1(a) eliminates tax credits after the effective date of this amendment with the exception of existing tax credits issued, authorized, or approved before the effective date. If tax credits are issued, authorized, or approved after the effective date, the amendment permanently reduces individual income tax by the "reduction factor." The reduction factor is the percentage required to sufficiently reduce individual income tax collections by the cumulative amount of tax credits issued.

Based on the Fourth Quarter FY 2013 Department Tax Credit Report, the value of tax credit redemptions amounted to $512.9 million. The amount of tax credits authorized in FY 2013 was $551.9 million. The amount of tax credits issued in FY 2013 was $358.6 million. Using these numbers, the potential negative impact of a reduction in the individual income tax rate may be between $472,518,747 and $1,024,419.222 in the first effective year.

These calculations are based on the number of tax credits approved and redeemed in FY 2013 only. It cannot be determined whether the amount of tax credits authorized, issued or approved will remain constant upon the passage of this amendment.

Personal Tax:
If income tax rates change, Personal Tax will need one (1) Revenue Processing Technician per 19,000 additional errors, and one (1) Revenue Processing Technician per 2,400 pieces of additional correspondence.

Withholding Tax:
If income tax rates change, withholding tables require updating. This will require sufficient time to make changes to any forms, applications, or online postings.

Collections & Tax Assistance (CATA):
CATA will require two (2) Tax Collection Technicians with CARES equipment and (1) Revenue Processing Technician with CARES equipment to respond to additional contacts in regard to reduced individual income tax rates and adjustments due to the expiration of tax credits.

ITSD-DOR:
Because the amendment triggers a permanent reduction of state individual income tax rates with issuing, authorizing, or approving tax credits after the effective date of this amendment, ITSD requires 504 FTE hours to make necessary program changes valued at $13,633.

DOR officials made the following additional comments:

Section 1:
Section 1(a) provides for the reduction in the rate of the individual income tax if agencies "issue, authorize or approve" tax credits beyond the current amount. It could create uncertainty as to whether a particular tax credit is issued, authorized or approved. Some tax credits are "claimed" on a tax return when the taxpayer satisfies all statutory requirements. These "claimed" tax credits may be included in the provision because the General Assembly "authorized" the tax credit when it enacted the statute. The term "approved" is vague. It is unclear how this term relates to "issued" and "authorized" and may lead to potential litigation.

It is unclear if the rate reduction applies to rates in each income tax bracket. It is also unclear whether the limit is calculated on the highest of "issued, authorized, or approved," or the aggregate of all three.

It is unclear which state agency will be responsible for monitoring any additional tax credits issued, authorized or approved after the effective date of this amendment. Many of the tax credits are authorized at the beginning of a fiscal year, but are redeemed by tax year. This may result in a lack of funding for tax credits issued or authorized before the effective date of this amendment.

Officials from the **Department of Public Safety** indicated no fiscal impact to their department.

Officials from the **Department of Social Services** indicated this proposed constitutional amendment limits the cumulative amount of state tax credits issued, authorized, or approved in the future to the amount of tax credits issued, authorized, and approved on the effective date of the amendment. If the amount of tax credits exceeds the limit, the existing rate of the individual income tax shall be permanently reduced by the "reduction factor" effective the immediately ensuing tax year. If, at the time the limit is exceeded, the income tax rate is more than 0.25%, the "reduction factor" is determined by calculating the amount by which the tax credits exceed the existing limit and converting this amount to a percentage of the income tax rate rounded up to the nearest one-quarter percent. However, if at the time the limit is exceeded, the rate of the individual income tax rate is 0.25% percent or less, the individual income tax shall be permanently eliminated and the General Assembly shall have no authority to impose a tax on the income or earnings of any individual.

This amendment could affect total state revenue, but it is impossible to predict the fiscal impact to any one state department, including the Department of Social Services (DSS), because the funding available to DSS in any given year is dependent on the appropriations process.

Officials from the **Governor's Office** indicated no fiscal impact to their office.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal provides that the General Assembly and state agencies shall not issue, authorize or approve any amount of tax credits beyond the effective date of this amendment. If any tax credits are issued, or approved in any state fiscal year, the existing income tax rate shall be permanently reduced by a "reduction factor," defined as the percentage, rounded up to the nearest 0.25 percent, sufficient to reduce tax collections by the amount of the tax credit excess.

This proposal will have no impact on the Office of Administration.

Budget & Planning (BAP) notes that the DOR has reported the following amounts related to tax credit activity over the last three fiscal years:

Fiscal Year	Authorized	Issued	Redeemed
2011	339.0	421.4	545.2
2012	528.4	416.9	629.3
2013	551.9	358.6	512.9

Figures do not include Enterprise Zone Modifications.
Figures do include retained withholdings under various programs.

"Authorized" and "Issued" columns do not include DOR credits redeemed directly on the tax form.
The largest of these is the Senior Property Credit, which has average redemptions over $115M.

Also, BAP estimates a 0.25% reduction in the top marginal rate of 6% could reduce general and total state revenues by more than $170M. However, BAP notes these caveats:

- The proposal requires "the existing rate of the individual income tax" to be permanently reduced. However, there are ten distinct marginal tax rates for individuals currently in statute, ranging from 1.5% to 6%. It is unclear if all the rates, or only the top rate, should be reduced. If all the marginal rates are reduced, then each 0.25% reduction could reduce general and total state revenues over $220M.
- This estimate is based on net income tax liabilities for tax year 2011. However, the proposal refers to "tax collections," which might mean gross collections are to be used for this calculation.

BAP notes there are other concerns that do not allow for a more precise estimate of the fiscal impact of this proposal. These include, but are not limited to:

- The term(s) "issue, authorize, or approve" are not clearly defined. For instance, it is unclear if the term "approved" is similar to the term "authorized" or has a different meaning, such as "redeemed." This could mean the state is unable to redeem any tax credits that were issued, authorized or approved prior to passage of this petition.

Officials from the **Office of State Courts Administrator** indicated no fiscal impact to their office.

Officials from the **Office of the Secretary of State** indicated they are is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **Cole County** indicated they cannot cite to a specific dollar amount cost, but:

One concern is that because this Amendment applies to county governments too, it could have an effect on local governments' abilities to fund economic development through property tax credits for eligible businesses in Enhanced Enterprise Zones (sections 135.950 to 135.973, RSMo).

This Amendment has the potential to reduce State revenues, which in turn could affect the State money that comes to Cole County, particularly funding and grants for the Health Department, Sheriff's Office, and roads and bridges.

Officials from the **City of Columbia** indicated at this time, the city cannot identify a specific fiscal impact. It seems possible, however, that if tax credits are limited, the possibility of supporting local development projects could be scaled back. If state General Revenue decreases due to reduced income tax liability, grants and other state assistance for local programs could diminish.

Officials from the **City of Jefferson** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Kansas City** indicated this initiative petition has an indirect fiscal impact on the city. The officials said they do not know the dollars that will be lost by businesses who decide not to locate in the city and our businesses who chose to move across the state line to Kansas because they are unable to receive economic incentives comparable to what they will receive in Kansas.

Officials from the **City of St. Joseph** indicated curtailing the issuance of tax credits may impact future economic development projects in the city. Reducing the individual income tax following issuance of such credits would have no direct impact on the city, but could lead to a reduction of state grant funds (depending on how such revenue reductions impacted state programs). Amounts of such reductions unknowable.

Officials from the **Hannibal School District No. 60** indicated the petition may have a significant negative impact on state revenue and education in particular by limiting and/or reducing the tax credit and rates. They indicated they opposed the petition.

Aaron Willard provided the following information as a proponent of this initiative petition.

Proposed Statement of Fiscal Impact for Initiative Petition for a constitutional amendment related to Article X, (2014-060)

Submitted by:

Aaron Willard by SSB #61855

Aaron Willard
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St. Louis, MO 63117
Telephone No.: (314) 367-2842
E-mail: aaron@growmissouri.com

I submit the following proposed statement of fiscal impact for the Initiative Petition that I filed on November 12, 2013.

The proposed measure requires the individual income tax to be reduced by a certain percentage if the general assembly issues, authorizes any tax credits. It is assumed that the general assembly will not issue additional tax credits in order to maintain the current individual income tax rate.

General and total state revenues will increase as a result of the reduction in total state tax credits being issued, authorized or approved. Fiscal impacts for previous legislative proposals limiting tax credits have based savings on the average amount issued.[1]

Tax Credit Summary				
	FY 10	FY 11	FY 12	AVERAGE
Authorized	451,078,559.57	332,560,993.13	469,881,478.06	417,840,343.59
Issued	419,708,794.74	441,785,541.44	401,442,295.79	420,978,877.32
Redeemed	493,170,570.86	528,160,183.40	615,896,450.42	545,742,401.56
TOTAL	1,363,957,925.17	1,302,506,717.97	1,487,220,224.27	1,384,561,622.47

Source: Report of the Missouri Tax Credit Review Commission, available at http://tcrc.mo.gov/pdf/2012-tcrc-report.pdf

The average amount issued over Fiscal Years 2010-2012 is $420,978,877.32. That translates into a savings to state general revenue in approximately the same amount annually. In addition, the savings accumulates each year – in just five years, the savings would amount to more than $2 billion for the state.

In addition, it takes a number of state employees to manage the current tax credit programs. The state should save significant amounts and eliminate several FTEs as a result of not authorizing or issuing any tax credits after the proposed measure passes.

[1] http://www.moga.mo.gov/oversight/OVER11/fispdf/0708-01N.ORG.PDF (Attached hereto as Appendix A).

Opponents may argue that this measure would have significant cost related to the reduction of the income tax rate. However, even if the state chose to issue $200 million in tax credits, then the income tax would only be reduced by one quarter of one percent, resulting in approximately $200 million less in income tax revenue. The state would also still save the additional $220 million that were not issued in tax credits.

Individual Income Tax	
Individual Income Tax Collection	5,851,271,599.00
Less Refunds	915,901,718.00
Less Senior Citizen Refunds	117,603,638.00
	4,817,766,243.00
Divide Tax Collections by 6% - Tax Base	80,296,104,050.00
Multiply by .25%	$200,740,260.13

Conclusion

The proposed measure would have a significant costs savings to state government. In just one year, the state could save more than $420 million dollars. In addition, there would be substantial savings due to the reduction in resources needed to administer tax credit programs. We submit the following proposed statement of fiscal impact:

> It is estimated this proposal will result in a savings to state government of at least $420 million annually. The proposal will have no impact on local governments.

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0708-01
Bill No.: SB 185
Subject: Tax Credits
Type: Original
Date: March 22, 2011

Bill Summary: This proposal imposes a sunset upon all tax credit programs not currently subject to a sunset provision.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	$0	$0	$493,808,566
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$493,808,566**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Budget and Planning (BAP)** assume the proposed legislation should not result in additional costs or savings to BAP. This proposal places a sunset of January 1, 2013, on all tax credit programs that do not currently have a sunset. This proposal may reduce tax credit redemptions a small amount in FY 2013, and more so in FY 2014, depending on which programs are ultimately renewed. This proposal may increase general and total state revenues. This proposal may reduce economic activity associated with the sunset programs, but BAP does not have an estimate of lost revenues.

BAP notes the various administrative agencies did not list sunset dates for the following programs in their budget submissions for FY 2012:

Program	FY 10 Redemptions
Low Income Housing	142,141,458
Property Tax	118,594,589
Historic Preservation	108,064,200
Brownfield Remediation Tax	17,590,273
Infrastructure Development	13,970,215
Affordable Housing Assistance	11,647,956
Neighborhood Assistance	10,065,992
BUILD	8,306,413
Missouri Health Insurance Pool	7,896,391
Neighborhood Preservation	6,739,123
Examination Fees and other fees	5,227,134
Youth Opportunities	4,405,158
New Enhanced Enterprise Zone	2,916,392
Bank Franchise Tax Credit (Refundable)	2,013,584
Adoption Tax (Special Needs)	1,894,187
Bank Tax Credit for S Corporation Shareholders	1,823,612
Brownfield Jobs and Investment	1,593,271
Development Tax	1,589,618
Rebuilding Communities	1,553,894
Self-Employed Health Insurance	1,517,004
Domestic Violence Tax	789,750
Maternity Home	761,650
Missouri Property & Casualty Guarantee Association	592,308
Children in Crisis	420,857

ASSUMPTION (continued)

Small Business Incubator	219,014
Wine and Grape Production	112,057
Shared Care Tax	106,086
New Enterprise Creation	77,098
Disabled Access	12,526
Family Development Account	3,000

Officials at the **Department of Revenue (DOR)** assume that to the extent tax credits are not re-authorized and allowed to sunset per this legislation, an unknown, positive impact will result for Total State Revenue. The following represents tax credit redemptions of tax credits administered by DOR in FY10:

Bank Franchise Tax Credit $2,013,584
Bank Tax Credit for S Corporation Shareholders $1,823,612 ($2,470,250 outstanding credits)
Residential Dwelling Accessibility Tax Credit $23,040
Disabled Access $12,526 ($67,086 outstanding credits)
Food Pantry $793,734 ($229,531 outstanding credits)
Peace Office Surviving Spouse $22,636
Self-employed health insurance $1,517,004
Senior Citizen Property $118,594,589
Special Needs Adoption $2,315,044 ($4,892,937 outstanding credits)

If each of the credits noted above were eliminated, DOR assumes an amount similar to the FY10 redemption would be saved each fiscal year after the effective date. However, taxpayers that owned credits noted above as outstanding credits, could redeem those credits after January 1, 2013.

Officials at the **Department of Economic Development's Missouri Housing Development Commission (MHDC)** assume this bill could potentially result in the elimination of the two tax credit programs administered by MHDC (Mo. LIHTC and AHAP). However, the fiscal impact to the state is unknown at this time, because it would be dependent on the future actions of the General Assembly. Even if the tax credit programs were not re-authorized, there would still be on-going costs associated with the programs due to carry-forward provisions and because the Missouri Low Income Housing Tax Credit (Mo. LIHTC) is a 10 year credit. If no new credits were authorized after 1/1/2013, the state would not see a fiscal impact until at least FY15. Also, while there is no fiscal impact to the state of applying a sunset clause, it would result in a reduction in the efficiency of the Mo. LIHTC, because uncertainty about the future of the program would reduce the price investors would be willing to pay for the credit.

ASSUMPTION (continued)

Officials at the **Department of Economic Development's Business and Community Services Division** assume and unknown fiscal impact.

Officials at the **Department of Health and Senior Services** assume this bill would sunset the Shared Care Tax Credit Program established in Section 660.055, RSMo, effective January 1, 2013. In FY 2010, there were 246 claimants who redeemed $106,068 from this tax credit. Assuming a similar amount of claims would continue in

the future, DHSS assumes approximately $106,068 would not be issued and redeemed in FY 2014 if the tax credit is not re-authorized.

Officials at the **Department of Elementary and Secondary Education** assume that imposing a sunset on tax credits could have a positive impact on the state's tax revenue and on schools.

Officials at the **Department of Agriculture** and the **Department of Social Services** assume that there is no fiscal impact from this proposal.

Oversight assumes this proposal would sunset the tax credits listed in this proposal on August 28, 2013. Oversight assumes any income to the state from tax credits sunset and the taxes being collected will start in September of 2013. However, since it is possible for the agency to issue all of the tax credits before this proposal sunsets, Oversight will only show the savings in FY 2014. Oversight assumes the future claiming of the tax credits will remain constant over the upcoming fiscal years. Oversight for the fiscal note is showing the amount of increased revenue to the State as the average amount issued over the last five years.

FISCAL IMPACT - State Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
Revenue - sun setting of the tax credits and the taxes being collected.			
Low-Income Housing	$0	$0	$129,432,296
Property Tax	$0	$0	$105,308,577
Historic Preservation	$0	$0	$133,069,055
Brownfield Remediation	$0	$0	$20,739,465
Infrastructure Development	$0	$0	$24,625,997
Affordable Housing Assistance	$0	$0	$7,925,546
Neighborhood Assistance	$0	$0	$12,277,756
BUILD	$0	$0	$7,230,977
Missouri Health Insurance Pool	$0	$0	$8,994,728

Neighborhood Preservation	$0	$0	$5,908,468
Exam Fee	$0	$0	$10,987,629
Youth Opportunities	$0	$0	$4,894,979
Enhanced Enterprise Zone	$0	$0	$2,161,477
Bank Franchise	$0	$0	$2,209,248
Adoption/Children in Crisis	$0	$0	$2,780,552
Bank S Corp	$0	$0	$1,507,338
Brownfield Jobs	$0	$0	$1,844,203
Development Tax	$0	$0	$1,574,478
Rebuilding Communities	$0	$0	$1,703,581
Self-Employed Health	$0	$0	$1,428,578
Domestic Violence	$0	$0	$908,288
Maternity Home	$0	$0	$1,073,704
MO Property & Casualty	$0	$0	$4,591,780
Small Business Incubator	$0	$0	$288,584
Wine & Grape Production	$0	$0	$157,579
Shared Care	$0	$0	$150,900
New Enterprise Creation	$0	$0	$0
Disabled Access -Small Business	$0	$0	$21,403
Family Development Account	$0	$0	$11,400
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0**	**$0**	**$493,808,566**

FISCAL IMPACT - Local Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act sunsets all tax credit programs, which are not currently subject to the Missouri Sunset Act, effective January 1, 2013.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Budget and Planning
Department of Agriculture
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Revenue
Department of Social Services

Mickey Wilson, CPA
Director
March 22, 2011

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Natural Resources,** the **Department of Labor and Industrial Relations,** the **House of Representatives,** the **Department of Transportation,** the **Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

The potential costs or savings to state and local governmental entities is unknown. Legislative, administrative and potential legal decisions made will impact the dollar amount of tax credits issued, authorized or approved and what if any reduction will occur in the individual income tax rate(s).

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-061)

Subject

Initiative petition from Aaron Willard regarding a proposed constitutional amendment to Article X. (Received November 18, 2013)

Date

December 6, 2013

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union, the City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **State Tax Commission.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** (DED) said this proposal could actually be an unknown negative impact to DED because of the proposed reduction in the income tax. If enacted it may mean that General Revenue is so affected that DED would see a decrease in budget.

Officials from the **Department of Elementary and Secondary Education** indicated:

The proposal repeals the earnings and income tax and replaces it with a decreased income tax in addition to an increased sales tax. The language states that the rates of tax levied shall be recalculated and renewed every year to produce an amount of revenue equal to the decrease in revenues as a direct result of the repeal of the earnings and income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the impact of an increased sales tax on purchases within the state is unknown. We defer to DOR in that regard.

The proposal also redefines "Missouri taxable income." We defer to DOR in regard to the impact of those changes.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this petition and have determined the provisions of this proposal would not impose either a cost or savings on their department. While the revisions of the tax law could have a substantial impact on the funds available to the MDHE and institutions of higher education, there would be no direct cost or savings.

Officials from the **Department of Health and Senior Services** defers to OA-Budget and Planning to estimate the fiscal impact of this initiative petition.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to the department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. They will defer to the Department of Revenue for any impact to state revenue.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Revenue** indicated this proposal would increase costs for their department by $196,498 for fiscal year 2015, $378,097 for fiscal year 2016.

This amendment may increase state sales tax. It is unknown if this increase will impact small businesses. The IT portion of the fiscal impact is estimated with a level of effort valued at $57,887. The value of the level of effort is calculated on 2,140 FTE hours.

This amendment reduces individual income tax rates and will reduce Total State Revenue by an estimated $1.5 billion in the first full effective fiscal year. After this decrease occurs, the General Assembly is authorized to increase the state sales tax to make up the difference in lost revenue and renew the increase each year after, however the sales tax increase is not required. If the General Assembly would choose to increase the sales tax rate to match the estimated revenue loss in the first full year following as a result of the income tax rate reduction, the sales tax rate would be increase to approximately 6.684% from the current 4.225% to make up for the projected reduction in individual income tax.

Because the state sales tax increase is an option at the discretion of the General Assembly that must be renewed annually and because the General Assembly does not have the authority to increase the sales tax rate until a decrease to revenues occurs, it can be assumed that this amendment will decrease Total State Revenue.

This amendment will decrease total state revenue. Any decrease to revenues following the first year is dependent on whether the General Assembly passes an increased state sales tax and renews it each year. If the General Assembly does not increase the state sales tax rate, the loss in revenue from the individual income tax rate reduction would continue. Furthermore, if the General Assembly in any year fails to renew the increase of the state sales tax rate, the sales tax increase shall expire and state revenues will decrease.

Section 1(a)
This provision prohibits the General Assembly from enacting laws that impose a tax on income beginning with tax year 2015, except as provided in sections 1(a) to 1(d) of this amendment. Additionally, it prohibits the general assembly from authorizing political subdivisions the power to impose tax on income except those taxes that were enacted or imposed by a city before January 1, 2015, and renewed by voters.

Section 1(b)
This section repeals the existing income tax except those imposed by 1(c) and any tax imposed by a city before January 1, 2013. The Director continues to collect taxes in effect before January 1, 2015.

Section 1(c)
Beginning January 1, 2015 the amendment imposes a tax on:

Married filing joint returns or heads of household:

Missouri taxable income not over $30,000	3.0%
Missouri taxable income over $30,000	4.9% plus $900

All other individuals:

Missouri taxable income not over $15,000	3.0%

Missouri taxable income over $15,000 4.9% plus $450

Administrative Impact

Personal Tax:

A change in income tax rates will require two Revenue Processing Technicians I for every 2,400 pieces of correspondence and 19,000 errors generated

Collections & Tax Assistance (CATA):

CATA requires two Tax Collection Technicians with CARES equipment and Revenue Processing Technician with CARES equipment to respond to additional contacts in response to tax rate changes and taxable income changes.

ITSD-DOR:

New Tax Rates -504 hours; 2 tiers for married and head of household; 2 tiers for other filers

Section 1(d)

This section defines Missouri taxable income. Missouri taxable income excludes net profits from business reported on a schedule C, net income from rental real estate royalties, et al reported on schedule E, and net farm profit reported on schedule F.

Administrative Impact

ITSD-DOR:

New subtraction for business profits -504 hours

New subtraction for schedule E and line 17 of federal (rental, S Corp, etc.) -504 hours

New subtraction for net farm profit -504 hours

Section 1(e)

The provisions of this section allow the General Assembly to enact sales tax increases, expansions of the base, or both without voter approval if revenues decrease due to provisions of sections 1(a) through 1(d).

If the General Assembly chooses to increase the state sales tax rate to offset the loss of revenues from the income tax change, the state sales tax rate would need to be raised from the current rate of 4.225% to 6.684% each year after following a decrease in state revenues.

Administrative Impact

Collection & Tax Assistance (CATA):

CATA may see additional registration and customer phones call if the sales tax base is expanded. This will require two Revenue Processing Technicians with CARES equipment to respond to additional contacts and registrations.

Sales Tax:

The Department needs to send rate change letters to all registered businesses if the General Assembly increased the sales tax rate as a result of reduced income tax revenues. We would potentially need to send letters every year, because the rate is to be recalculated and renewed each year. If it is not renewed it expires, which would also require us to send a rate change notice.

ITSD-DOR:
Sales Tax rate change - 124 hours

Postage:
Costs associated with notifying approximately 150,000 sales/use tax filers of the rate change:

Letters:	$ 0.0255	x 150,000	= $	3,825
Envelopes:	$ 0.04	x 150,000	= $	6,000
Postage:	$ 0.39	x 150,000	= $	58,500
TOTAL			$	68,325

Section 1(f)
This provision empowers the general assembly to enact laws that provide for the administration and collection of taxes authorized in this amendment.

Section 4(d)
The amendment modifies language in this section to eliminate provisions that authorize the general assembly to impose a tax or set rates.

Comments:

This amendment would not come to the vote of the people until November 2014. With an effective date of January 1, 2015, this would give the department less than 60 days to implement the required changes. This would not be a sufficient period of time to make rate changes to the tax systems and forms in preparation for the Tax Year 2014 filing.

Section 1(c)
Taxpayers with taxable income of $6,000 or less will see a tax increase under these new tax rates. This may also create a substantial increase for those taxpayers with taxable income above the $15,000 or $30,000 threshold. Those taxpayers making just over the cutoff amount will be pushed into the higher income bracket. This will create an additional burden for those taxpayers.

Section 1(c)(i)
By establishing a separate threshold for taxpayers filing a combined Missouri return or those filing as a Head of Household, this calculates the tax based on the combined total of both spouses. Currently, each spouse's income is reported jointly and the tax is calculated

on each spouse's income. However, the amendment does not delete the Married Filing Combined filing status, so it may be interpreted that this would create an additional filing status.

Currently, Missouri does not provide by statute for the filing of "joint returns" for married individuals. Instead, Sections 143.031 and 143.491, RSMo provide that "A husband and wife who file a joint federal income tax return shall file a combined return. A husband and wife who do not file a joint federal income tax return shall not file a combined return." Section 143.031.1, RSMo.

The use of "joint returns" in the IP 14-061 could result in one of two situations: Upon enactment of the constitutional amendment, married individuals may only file "joint returns" in Missouri or allow married individuals to file either "joint returns" or "combined returns" in Missouri. There is a significant difference between the two types of returns. In Missouri currently, the filing of a combined return provides that "[t]he tax liability of the two taxpayers shall be separate and not joint and several." Section 143.491.1, RSMo. "Joint return" provides that under "general principles of federal income tax law, a husband or wife is jointly and severally liable for any deficiencies, penalties and interest assessed against his or her spouse regarding a joint income tax return, unless he or she was an innocent spouse." *U.S. v. McKinney*, 686 F.3d 432 (7th Cir. (Ill.), 2012).

Therefore, under current Missouri law, the tax liability of the individual spouse remains that spouse's personal liability regardless of filing a combined return. "Split liability" as allowed under Section 143.491, RSMo, is a right allowed for either spouse. If "joint returns" are exclusively mandated that only the right to "split liability" is lost because that right only applies under Missouri statutes for "combined returns." Missouri has no provision for an innocent spouse request as does the Federal government under Title 26 U.S.C. Section 6015, which only; allows a minority of spouses to take advantage and not be held liable for the combined tax liability of both spouses.

If married Missouri individuals are allowed to elect between filing a "joint return" or a "combined return," this creates processing and collection confusion not only for the state but also for the taxpayer themselves.

Section 1(d)
The definition for "Missouri Taxable Income" is ambiguous. As provided by this section, the term will need to be defined by law, but shall not include net profits from business, net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, and net farm income, or net farm profit. Until the General Assembly acts, the language may be construed to mean gross income with no deductions or exemptions.

The department recommends defining "net profits from a business," "net income," and "net farm profits." It is unclear if net losses are included in the calculation of Missouri taxable income.

Section 1(e)
The department recommends defining the term "revenue collected," as it is unclear if this is to mean the gross amount or net amount of revenue collected after refunds.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department due to this initiative petition.

Officials from the **Department of Social Services** indicated:

This amendment could affect total state revenue, but it is impossible to predict the fiscal impact to any one state department, including the Department of Social Services (DSS), because the funding available to DSS in any given year is dependent on the appropriations process.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency resulting from this initiative petition.

Officials from **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated this proposal will have no impact on the Office of Administration, or Budget & Planning (BAP).

Regarding the state individual income tax:

- This proposal supersedes the existing ten marginal tax rates, and replaces them with two sets of marginal rates. For single taxpayers, the tax shall be 3% on income less than $15,000, and 4.9% on income above this threshold. For joint returns and those filing as heads of household, the income threshold is doubled to $30,000.
    - BAP notes that under current statutes, married filers file combined returns, as opposed to the joint returns filed for federal income taxes. Additionally, taxpayers filing combined returns separate their incomes, and then calculate tax on each taxpayer's proportion of income. It is unclear if the intent of this proposal is to continue this practice, or instead for married taxpayers to merge their incomes into one amount for the calculation of tax.
- This proposal excludes various sources of income from state taxable income, including net business profits reported on Schedule C and line 12; net partnership, royalty, and other income on Schedule E and line 17; and net farm profit on Schedule F and line 18.
    - BAP notes that the phrases "net profits from a business," "net income," and "net farm profits" are not clearly defined in this proposal. In particular it is unclear if or how taxpayers are to include any net losses for the purposes of calculating income tax.

- This proposal does not change the corporate income tax. The tax rate on corporate income remains 6.25%. This may encourage corporate taxpayers to change their filing status so that they may file as partners through the individual tax system. This may further reduce general and total state revenues.

BAP estimates the income tax proposal will reduce general and total state revenues annually by amounts that could exceed $1.5B. This estimate is based on net individual income tax liabilities reported for tax year 2011.

Because the changes to income tax are effective January 1, 2015, cash flow impacts will begin to be realized no later than February 2015, as taxpayers make adjustments to amounts withheld from earned income.

The general assembly may, but is not required to, levy an additional sales tax, or broaden the existing sales tax base, to recover the revenues forgone by the changes to the income tax. Gross general revenue sales tax collections in fiscal year 2013 totaled just under $1.9B, at a tax rate of 3%. Therefore, to recover the lost revenues noted above, this sales tax rate would have to be increased by at least 2.37%. It is uncertain what action, if any, the general assembly might take. For instance, the general assembly could adopt an additional rate that is lower than 2.37%, or choose not to enact any additional tax. Further, any new sales tax is to be recalculated and renewed on annual basis. If not renewed, it shall expire. Note: This petition does not reference use tax, if use tax is increased, like sales tax, the use tax increase will not be exempt from the 18e calculation.

Therefore, BAP estimates this proposal will reduce general and total state revenues by an amount that could exceed $1.5B. These losses may be mitigated (perhaps only partially) if the general assembly chooses to annually reenact an additional sales tax.

OA Observations:

- This proposal would increase tax for individuals reporting the lowest amounts of taxable income, i.e. those with incomes under $3,000, upon which the current marginal tax rate is less than 3%. This impact is compounded by the increase in sales tax.

- The proposal no longer allows the general assembly to impose a tax on individual income beyond that described in this proposal. However, the general assembly may define taxable income, and may reference federal law when doing so. Depending on when this petition is passed by the voters, statutory updates may need to occur outside the regular legislative session.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed

by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant direct impact on their office except as it may limit the state's income available for appropriations.

Officials from the **Office of the State Treasurer** indicated no fiscal impact to their office.

Officials from the **City of Columbia** indicated it is not possible to identify a specific fiscal impact, although the proposal could decrease the predictability of local revenues, repeal tax-generating tools currently available to voters and create confusion if the General Assembly is in the position of adjusting tax rates annually.

The City of Columbia received approximately $538,000 in state grants in fiscal year 2012 (October - September); while this is not a guaranteed annual sum, it represents a potential resource that could be in jeopardy.

Officials from the **City of Jefferson** indicated this petition would have no fiscal impact on their city.

Officials from the **City of Kansas City** indicated this petition may negatively impact the revenue from the Kansas City earnings tax. The earnings tax produced revenue of two hundred nineteen million dollars for the fiscal year ended April 30, 2013, of which approximately one hundred seventy-eight million dollars came from the tax on wages and salaries, and forty-one million dollars from the tax on business net profits. Effective January 1, 2015, the initiative petition would repeal any tax measured by the earnings of an individual except, "any tax on or measured by the income or earnings of any individual that was lawfully enacted and imposed by a city prior to January 1, 2013 and continues to be lawfully renewed by voters of such city." Although Kansas City's earning tax was lawfully enacted and renewed prior to January 1, 2013, the initiative petition

would potentially change the earnings tax renewal requirement from statutory to constitutional.

Also, the initiative petition would have the following indirect fiscal impact: Any increase in the state sales tax rate from this initiative would be a disincentive to shop in Kansas City, Missouri. More consumers would shop online or in nearby Kansas stores. This would reduce Kansas City local sales tax revenues.

Officials from the **City of Raymore** indicated no fiscal effect.

Officials from the **Hannibal School District No. 60** indicated this petition may have a significant negative impact on state revenue and education in particular by limiting and/or reducing the tax credit and rates. They indicated they opposed this petition.

Officials from **Metropolitan Community College** indicated this petition would have an adverse, but unidentified, impact on Metropolitan Community College. Sale tax is a regressive tax - increasing sales tax to replace lost revenue from a reduced income tax poses a greater burden on lower income families.

Officials from the **Public Service Commission** indicated this initiative petition will have no fiscal impact on their agency.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Labor and Industrial Relations,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators**, **Jasper County, St. Charles County, St. Louis County, Taney County**, the **City of Cape Girardeau**, the **City of Joplin,** the **City of Kirksville**, the **City of Kirkwood,** the **City of Mexico**, the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri**, the **St. Louis Community College,** and the **State Tax Commission.**

Fiscal Note Summary

State government entities estimate this proposal could reduce total state revenue by $1.5 billion in the first full effective fiscal year. If a decrease occurs, the legislature is authorized but not required to make changes to the state sales tax to offset lost revenue and renew changes each year thereafter.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-063)

Subject

Initiative petition from Steven Reed regarding a proposed constitutional amendment to Article IV. (Received November 18, 2013)

Date

December 6, 2013

Description

This proposal would amend Article IV of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this petition and have determined the provisions of this proposal would not impose either a cost or savings on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Revenue** indicated this proposal would increase costs for their department by $139,268 for fiscal year 2015 and increase state revenue by $36,450,000 in fiscal year 2015, and $36,450,000 for fiscal year 2016.

This amendment imposes an additional sales tax of 1/10th of one percent to fund "Technology Parks" in Ozark, Billings, Joplin, Nixa, Republic, Willard, Springfield, or any other city that requests funding.

The IT portion of the fiscal impact is estimated with a level of effort valued at $9,630. The value of the level of effort is calculated on 356 FTE hours.

The amendment increases total state revenue by approximately $73 million.

The amendment imposes a 1/10th of one percent sales tax upon sellers for selling tangible personal property or taxable services for a period of one year. The Department of Economic Development receives revenue from the tax to promote and develop Technology Parks in Ozark, Billings, Joplin, Nixa, Republic, Willard, Springfield, or any other city that requests funding In addition to the tax, the amendment sets up a foundation for contributions from labor leaders, business leaders, educational leaders, and the public at large. The tax expires after one year of collections.

Based on fiscal year 2013 collections, a 1/10th of one percent increase is to approximately $72.9 million. The increased revenue would be divided between fiscal years 2015 and 2016.

Administrative Impact

Sales Tax:
The department needs programming to impose the new state rate. Additionally, we need to send rate change letters to all businesses registered to collect sales tax.

Postage Costs: As of August 2012, a report generated by Information Technology indicated there were 140,911 businesses registered to collect sales tax. Based on the number of businesses, the Department requires $129,638 for mailings to notify these businesses when the increased rate goes into effect and when the rate is reduced at the end of the effective year. (281,822 x $0.46 = $129,638) However, the postage rate is expected to increase in January, so the cost of sending these letters may increase after that time.

ITSD-DOR:
Tax - Sales Tax
Section 36(1) New 1/10th of one percent state sales and use tax for technology parks.

Money must be put on separate line cashiering worksheet – 188 hrs
New line item on Sales Tax Worksheet Application – 168 hrs

Comments:

Section 36(a)
The amendment states, "…cities of Ozark, Billings, Joplin, Nixa, Republic, Willard, Springfield and any other legal city will be able to submit request for funding."

The amendment does not include a definition for what constitutes a "legal city." The department recommends defining this term.

The department recommends defining "Technology Parks."

The sales and use tax established in this section is only imposed on sellers for the privilege of selling tangible personal property or rendering taxable services at retail or for the privilege of storing, using, or consuming tangible personal property in this state. Motor vehicles, trailers, boats, and outboard motors are excluded from the sales tax imposed on sellers; rather they are subject to a titling tax imposed on individuals. Therefore, the increased sales and use tax is not applicable to the sale of motor vehicles, trailers, boats, or outboard motors.

There is no effective date expressed within the amendment. Therefore, this amendment will become effective December 5, 2014, if approved by voters in November, 2014. This

will require retailers to charge two different tax rates in the same month. It also does not provide adequate time to notify all retailers of the rate change.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department due to this initiative petition.

Officials from the **Department of Social Services** indicated there is no fiscal impact to their department because state purchases are generally exempt from the payment of sales tax. In addition, any funds raised by this sales tax are dedicated to a specific purpose and not available for any other governmental program.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency resulting from this initiative petition.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated a similar sales tax of 1%, collected for education purposes, generated $726.9 million in fiscal year 2013. This includes tax on food for home consumption, which is not exempted in this proposal. Therefore, an additional 0.1% tax would generate $72.7 million in one full year. This proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of

our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Columbia** indicated this is not a tax the City of Columbia currently collects; however, we assume anyone making purchases here would be subject to the tax, with no opportunity to directly or indirectly benefit, since revenues are earmarked for southwest Missouri. We cannot determine how much this would take from taxpayers.

Officials from the **City of Jefferson** indicated this petition would have no fiscal impact on their city.

Officials from the **City of Kansas City** indicated this initiative petition has no direct fiscal impact on their city. They indicated it would have the following indirect fiscal impact: Any increase in the state sales tax rate from this initiative would be a disincentive to shop in Kansas City, Missouri. More consumers would shop online or in nearby Kansas stores. This would reduce Kansas City local sales tax revenues.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated theoretically, the city could benefit from the sales tax were we to apply for, and receive, funds for a technology park. On the other hand, if the city had to spend $30,000-40,000 on an election to see if citizens think the city needs such a thing in order to have a good chance of receiving such funds, any benefit is reduced. If the city didn't get a proposal approved, the city would lose the money spent for the election.

Officials from **Metropolitan Community College** indicated this initiative petition would have an adverse impact on their college as tax revenue is being restricted and designated to southwest Missouri.

The State Auditor's office did not receive a response from the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Natural Resources,** the **Department of Labor and Industrial Relations,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

This proposed constitutional amendment will impose a sales tax of one-tenth of one percent for one year. The additional revenues of approximately $73 million will be used for the promotion and development of Technology Parks in southwest Missouri. State governmental entities will have one-time increased operating costs of about $139,000.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-065)

Subject

Initiative petition from Matthew Dameron regarding a proposed constitutional amendment to Article VIII. (Received November 20, 2013)

Date

December 10, 2013

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board, and Clay County Election Board.**

Darryl Kempf, County Clerk for Cooper County provided information to the State Auditor's office.

Peggy Kenney, County Clerk for Cedar County on behalf of the Missouri Association of County Clerks and Election Authorities provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this petition and have determined the provisions of this proposal would not impose either a cost or savings on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated that this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact.

Officials from the **Department of Revenue** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department due to this initiative petition.

Officials from the **Department of Social Services** indicated there is no fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their agency.

Officials from **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated this proposal will have no fiscal impact on their office. Budget and Planning defers to the Secretary of State's office for statewide costs of election authorities.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

This specific petition establishes an early voting period for all federal and state general elections in Missouri. Due to the language in paragraph 5 of section 8, state costs may include only the necessary costs for changing the computerized Missouri Voter Registration System so that lists can be made available of voters who cast ballots during the early voting period. Due to the small amount of changes that are needed, these costs are minimal.

If state appropriations are made to fund the implementation of these provisions, these funds, like others in the past, will likely be appropriated through the secretary of state's office to the local election authorities. Other costs, whether they are classified as state costs due to the appropriation avenue or classified as local election authority costs, are as follows:

Assumptions relied on with these other costs include:
-293 hours open for early voting per site (central voting location and satellite locations)
-116 central vote early locations, 22 satellite voting sites per November 2013 voter count, and 24 satellite voting sites per November 2012 voter count (Using November 2012 and 2013 voter counts as estimate due to fact that the number of registered voters at time of implementation of this petition is currently unknown)
-Each central vote early location will be staffed by at least two election judges, paid $9 per hour
-Maintenance costs (including rent, utilities, and broadband internet service) of $1,890 per satellite location
-One time startup costs may be incurred for the purchase of equipment necessary for the general election satellite locations, including accessible voting machines for disabled voters, laptop computers and printers. However, some local election jurisdictions with satellite requirements may be able to use existing equipment for the satellite locations. Due to this ability, these potential startup costs fluctuate between jurisdictions and are difficult to estimate (however, they will likely range from $0 to $14,100 per satellite site).

ONGOING COSTS

Election Judge Cost per site ($9 x 293 hours)	$5,274	
Cost for Election Judges at Central Sites	$611,784	
Cost for Election Judges at Satellites per 11/13 voter counts	$116,028	
Cost for Election Judges at Satellites per 11/12 voter counts	$126,576	
TOTAL ELECTION JUDGE COSTS per 11/13 Voter Counts		$727,812
TOTAL ELECTION JUDGE COSTS per 11/12 Voter Counts		$738,360
TOTAL MAINTENANCE COSTS per 11/13 Voter Counts	$41,580	
TOTAL MAINTENANCE COSTS per 11/12 Voter Counts	$45,360	
TOTAL ONGOING COSTS per 11/13 Voter Counts	$769,392	
TOTAL ONGOING COSTS per 11/12 Voter Counts	$783,720	

After any potential initial startup costs are incurred, each general election cycle will incur the above-detailed ongoing costs, estimated per 11/13 voter counts as $769,392 or, estimated per 11/12 voter counts as $783,720.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated this petition would have no fiscal impact on their city.

Officials from the **City of Kansas City** indicated each election involving the city costs approximately $500,000. They expect that the local election authorities would incur additional costs for mail-in and early voting and that some of those costs would be passed onto them. They do not know what those increased costs would be.

Officials from the **City of St. Joseph** indicated any additional cost associated with Buchanan County's compliance with the requirements of this bill – which mainly seem to be keeping a central voting location open on weekends and late one week night prior to the election - would be shared by their city. Depending on the number of taxing authorities participating in any particular election, the city's share can run from $30,000 to $50,000. Whatever the county reports as it's cost of complying with this bill, the city would bear from 20%-100% of the cost, depending on the election.

Since the city's population is under 150,000, the additional satellite location(s) do not apply.

Officials from the **City of St. Louis** indicated:

The City of St. Louis Board of Election Commissioners estimates that early voting would cost an additional $19,400 to $20,400 per election. The cost breakdown is as follows:

Permanent & Temporary staffing (overtime)	$5,000-$6,000
Poll Workers (staffing satellite location)	$9,500.00
Rent Space	$2,100.00
Deliver Equipment (Transportation)	$800.00
Materials/Supplies	$2,000.00
Total	$19,400-$20,400

(Source: Jeremy Noland, Board of Election Commissioners, November 21, 2013)

Officials from **Metropolitan Community College** indicated this petition would have an adverse impact on their college with increased, but unidentified costs to implement.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

Officials from the **St. Louis County Election Board** indicated:

Upon further review the BOEC feels that this petition, if passed will require the use of paper ballots at each satellite location. We have included the costs of purchasing equipment, printing and delivery of paper ballots. Our M100 ballot counting machines have a limitation of 10 precincts per machine. Since St. Louis County contains about 1,300 precincts, we will need around 130 counting machines at each location. This quantity of machines will increase the space required for a satellite location as well as daily rents. Requiring the use of paper ballots dramatically increases the cost as well as operational complexity to the early voting process.

Satellite Site Costs

	Operating Days	Number of Sites	Daily Site Rental	Number of Elections		Total
Site Lease	36	12	$ 400.00	3		$ 518,400.00
Equipment set-up, delivery, pick-up, storage, truck rental fees	(5 deliveries per location @ $500 per delivery)	12	$ 2,500.00	3		$ 90,000.00
High-speed Internet		12	$ 165.00	3		$ 5,940.00
24 hour security services	36	12	$ 240.00	3		$ 311,040.00
					Total satellite costs:	**$ 925,380.00**

Paper Ballot Costs

	Ballots to be printed	Number of Sites	Number of Machines/Ballots per Site	Cost	Number of Elections	Total
m100*		12	130	$ 3,880.00		$ 6,052,800.00
m100 bases*		12	130	$ 700.00		$ 1,092,000.00
PCMCIA Memory Cards*		12	130	$ 12.00		$ 18,720.00
Paper printing		12	100,000	$ 0.26	3	$ 936,000.00
Ballot delivery costs		12		$ 600.00	3	$ 21,600.00
Ballot Return Costs		12		$ 450.00	3	$ 16,200.00
					Total non-recurring paper costs:	**$ 7,163,520.00**
					Recurring paper costs:	**$ 973,800.00**

Part-time labor

	Operating Days	Number of Sites	Number of Workers per Site	Labor per worker per hour	Number of Elections	Total
Deputies	36		4	$ 16.03	3	$ 55,399.68
Labor	36	12	2	$ 16.03	3	$ 332,398.08
Labor	36	12	12	$ 15.00	3	$ 1,866,240.00
Social Security @ 7.65%					3	$ 172,433.89
6 Hour Training Class				$ 15.00	3	$ 6,480.00
					Total annual labor costs:	**$ 2,432,951.65**

Total annual location, paper and labor costs: **$ 11,495,651.65**

Non-recurring, startup costs:

Equipment	Cost	Number of Sites	Qty per Site	Total
Touch-screen machines	$ 4,000.00	12	20	$ 960,000.00
Laptops	$ 1,000.00	12	4	$ 48,000.00
Printers	$ 1,000.00	12	1	$ 12,000.00
Tables, chairs, signs, posters, etc...	$ 400.00	12		$ 4,800.00
			Total non-recurring costs:	**$ 1,024,800.00**

Total costs 1st year:	**$ 12,520,451.65**
Total costs 2nd year:	**$ 1,444,043.88**
Total costs 3rd year:	**$ 4,332,131.65**

*** Non-recurring costs**

Officials from the **Kansas City Election Board** indicated the estimated cost to enact this fiscal note in our jurisdiction including temporary employees, supplies, building rental and legal notices would be $64,600.

The officials said as is their practice, additional satellites would need to be set up to handle the demand of early voting. These costs would be allocated to their funding entities (Jackson County and the City of Kansas City).

Officials from the **Platte County Election Board** indicated there would be no direct costs to the Platte County Board of Election Commissioners to implement the proposed changes.

However, there would be additional costs to their county to conduct early voting for six weeks prior to any state and/or federal elections. As currently written in State election law, the county must cover the costs of the Primary and General elections in even years.

Additional costs per election would range from $30,000 to $50,000.00. The majority of the additional costs are labor related for office staff overtime, election judge payroll to man the early voting site, FICA, W-2 preparation for election judges who normally, in an election year without early voting, would not have earned enough to trigger the W-2 requirement, would now trigger the W-2 for the extra hours/days of work.

Officials from the **Jackson County Election Board** indicated:

Central Early Voting Site + 2 Satellites

Annual Cost for Early Voting Coordinator to manage early voting centers, hire part-time personnel to man the early voting centers, track ballot ordering and insure safe and secure transport of memory stick and ballots

back to the election board offices:	$35,000.00
Building rental for two additional secure sites. (Based on Current Rental Rates and the cost of installing a security system and new locks on each building):	$70,000.00
Installing an internet connection to two sites to connect to the Missouri Central Voter Registration Database:	$ 1,800.00
Election Services Fund	$ 14,476.00
Miscellaneous Supplies & Expenses	$ 5,000.00
Ballot printing and ballots to insure paper ballots will be available for the voters if they choose not to utilize the ballot marking device:	$15,000.00
Legal Notices for Early Voting Site Locations	$20,000.00
Election Judges for two off-site locations for 6 weeks prior to the election, plus weekend overtime for full-time employees:	$60,000.00
	$221,276.00 (per election)

ONE TIME COST FOR SET-UP OF EARLY VOTING SITES

Three (3) Additional Precinct Ballot Counters	$ 20,000.00
30 OVI's Electronic Ballot Marking Devices	$145,000.00
6 Laptops	$ 5,000.00
36 Voting Booths – Including ADA Booths	$ 5,000.00
	$175,000.00

The cost for the Jackson County Election Board could increase or decrease depending on the number of sites required by law.

This fiscal note is based on one central satellite location and two off-site locations.

Darryl Kempf, County Clerk for Cooper County provided the following information:

Assumptions are being made by others that Early Voting can be performed by the County Clerk and current staff. Thus their assuming no additional cost.
That is wrong as my staff all have full time responsibilities now.
The space in the County Clerk's office is too small to conduct voting as the central vote early location. An additional location will be required to be found and used.

Costs

Elections

ESTIMATED COST OF EARLY VOTING ELECTIONS FOR COOPER COUNTY

1) Additional staffing in the office is going to be required to oversee the coordination of an Early Voting process

   Part time Assistant Office Administrator $ 6,700.00
   2 month time is conservative with Early Voting starting 6 weeks prior to election.
   Using $40,000 Annual as basis

   One part time Office Clerk $ 3,800.00
   Using $24,000 Annual as basis
   To make available to any requester a list of voters who have already cast a ballot. Such list….. and shall be made available promptly after a request.
   Again conservative figure as requesters will come out of the woodwork. Every candidate, every political party, every PAC plus individuals will be make daily if not hourly requests for such list of voters.

   Overtime Voter Registration Clerk $ 1,000.00
   Using $35,000 Annual as basis
   5 Hours on each Saturday and Sunday for the 3 weekends in the twenty-one days immediately prior to the election. 3 Hours on the last Thursday during the early voting period. 5 Hours following the close of early voting on the Monday immediately prior to election. This is a conservatively generous figure as will probably require more staff and hours following the close of early voting on that Monday.

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With the additional duties and responsibilities certainly another reason to separate the office of County Clerk and Election Authority in every county not currently authorized to do so.

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With consideration that cost of each election authority were no more than that of Cooper County.

115 X $42,900.00 = $4,933,500

Peggy Kenney, County Clerk for Cedar County on behalf of the Missouri Association of County Clerks and Election Authorities provided the following information:

EARLY VOTING FISCAL NOTE
FOR
INITIATIVE PETITION 14-065

	Election Board (6 Boards)	1st Class (11 Counties)	2nd Class (4 Counties)	3rd Class (93 Counties)
Annual Recurring Costs				
Satellite Site Costs	730,780.00	385,000.00	140,000.00	279,000.00
Part-time Labor	3,386,931.00	550,000.00	144,000.00	2,827,200.00
Voting Supplies & Publications	210,000.00	253,000.00	48,000.00	558,000.00
Total Annual Recurring Costs	4,327,711.00	1,188,000.00	332,000.00	3,664,200.00
State Total Recurring Costs				$ 9,511,911.00
Non-Recurring, Startup Costs				
Equipment	1,199,800.00	825,000.00	30,000.00	418,500.00
Total Startup Costs	1,199,800.00	825,000.00	30,000.00	418,500.00
State Total Startup Costs				$2,473,300.00
Grand Total Costs 1st Year				$11,985,211.00

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, St. Louis Community College, St. Louis City Election Board,** and **Clay County Election Board**.

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State government would have unknown costs and local governments could have total startup costs of up to $2.5 million and total on-going costs ranging from $770,000 to $9.5 million for each election cycle depending on election authority compensation, staffing, and planning decisions.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-066)

Subject

Initiative petition from Matthew Dameron regarding a proposed constitutional amendment to Article VIII. (Received November 20, 2013)

Date

December 10, 2013

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board, and Clay County Election Board.**

Darryl Kempf, County Clerk for Cooper County provided information to the State Auditor's office.

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Assumptions

Officials from the **Attorney General's office** indicated they assume any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this petition and have determined the provisions of this proposal would not impose either a cost or savings on their department.

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Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

This specific petition establishes an early voting period for all federal and state general elections in Missouri. Due to the language in paragraph 5 of section 8, state costs may include only the necessary costs for changing the computerized Missouri Voter Registration System so that lists can be made available of voters who cast ballots during the early voting period. Due to the small amount of changes that are needed, these costs are minimal.

If state appropriations are made to fund the implementation of these provisions, these funds, like others in the past, will likely be appropriated through the secretary of state’s office to the local election authorities. Other costs, whether they are classified as state costs due to the appropriation avenue or classified as local election authority costs, are as follows:

Assumptions relied on with these other costs include:
-293 hours open for early voting per site (central voting location and satellite locations)
-116 central vote early locations, 31 satellite voting sites per November 2013 voter count, and 33 satellite voting sites per November 2012 voter count (Using November 2012 and 2013 voter counts as estimate due to fact that the number of registered voters at time of implementation of this petition is currently unknown)
-Each central vote early location will be staffed by at least two election judges, paid $9 per hour
-Maintenance costs (including rent, utilities, and broadband internet service) of $1,890 per satellite location
-One time startup costs may be incurred for the purchase of equipment necessary for the general election satellite locations, including accessible voting machines for disabled voters, laptop computers and printers. However, some local election jurisdictions with satellite requirements may be able to use existing equipment for the satellite locations. Due to this ability, these potential startup costs fluctuate between jurisdictions and are difficult to estimate (however, they will likely range from $0 to $14,100 per satellite site).

ONGOING COSTS

Election Judge Cost per site ($9 x 293 hours)	$5,274	
Cost for Election Judges at Central Sites	$611,784	
Cost for Election Judges at Satellites per 11/13 voter counts	$163,494	
Cost for Election Judges at Satellites per 11/12 voter counts	$174,042	
TOTAL ELECTION JUDGE COSTS per 11/13 Voter Counts		$775,278
TOTAL ELECTION JUDGE COSTS per 11/12 Voter Counts		$785,826
TOTAL MAINTENANCE COSTS per 11/13 Voter Counts	$58,590	
TOTAL MAINTENANCE COSTS per 11/12 Voter Counts	$62,370	
TOTAL ONGOING COSTS per 11/13 Voter Counts	$833,868	
TOTAL ONGOING COSTS per 11/12 Voter Counts	$848,196	

After any potential initial startup costs are incurred, each general election cycle will incur the above-detailed ongoing costs, estimated per 11/13 voter counts as $833,868 or, estimated per 11/12 voter counts as $848,196.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated this petition would have no fiscal impact on their city.

Officials from the **City of Kansas City** indicated each election involving the city costs approximately $500,000. They expect that the local election authorities would incur additional costs for mail-in and early voting and that some of those costs would be passed onto them. They do not know what those increased costs would be.

Officials from the **City of St. Joseph** indicated any additional cost associated with Buchanan County's compliance with the requirements of this bill – which mainly seem to be keeping a central voting location open on weekends and late one week night prior to the election - would be shared by their city. Depending on the number of taxing authorities participating in any particular election, the city's share can run from $30,000 to $50,000. Whatever the county reports as it's cost of complying with this bill, the city would bear from 20%-100% of the cost, depending on the election.

Since the city's population is under 100,000, the additional satellite location(s) do not apply.

Officials from the **City of St. Louis** indicated:

The City of St. Louis Board of Election Commissioners estimates that early voting would cost an additional $19,400 to $20,400 per election. The cost breakdown is as follows:

Permanent & Temporary staffing (overtime)	$5,000-$6,000
Poll Workers (staffing satellite location)	$9,500.00
Rent Space	$2,100.00
Deliver Equipment (Transportation)	$800.00
Materials/Supplies	$2,000.00
Total	$19,400-$20,400

(Source: Jeremy Noland, Board of Election Commissioners, November 21, 2013)

Officials from **Metropolitan Community College** indicated this petition would have an adverse impact on their college with increased, but unidentified costs to implement.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

Officials from the **St. Louis County Election Board** indicated:

Upon further review the BOEC feels that this petition, if passed will require the use of paper ballots at each satellite location. We have included the costs of purchasing equipment, printing and delivery of paper ballots. Our M100 ballot counting machines have a limitation of 10 precincts per machine. Since St. Louis County contains about 1,300 precincts, we will need around 130 counting machines at each location. This quantity of machines will increase the space required for a satellite location as well as daily rents. Requiring the use of paper ballots dramatically increases the cost as well as operational complexity to the early voting process.

Satellite Site Costs

	Operating Days	Number of Sites	Daily Site Rental	Number of Elections		Total
Site Lease	36	13	$ 400.00	3		$ 561,600.00
Equipment set-up, delivery, pick-up, storage, truck rental fees	(5 deliveries per location @ $500 per delivery)	13	$ 2,500.00	3		$ 97,500.00
High-speed Internet		13	$ 165.00	3		$ 6,435.00
24 hour security services	36	13	$ 240.00	3		$ 336,960.00
					Total satellite costs:	**$ 1,002,495.00**

Paper Ballot Costs

	Ballots to be printed	Number of Sites	Number of Machines/Ballots per Site	Cost	Number of Elections	Total
m100*		13	130	$ 3,880.00		$ 6,557,200.00
m100 bases*		13	130	$ 700.00		$ 1,183,000.00
PCMCIA Memory Cards*		13	130	$ 12.00		$ 20,280.00
Paper printing		13	100,000	$ 0.26	3	$ 1,014,000.00
Ballot delivery costs		13		$ 600.00	3	$ 23,400.00
Ballot Return Costs		13		$ 450.00	3	$ 17,550.00
					Total non-recurring paper costs:	**$ 7,760,480.00**
					Recurring paper costs:	**$ 1,054,950.00**

Part-time labor

	Operating Days	Number of Sites	Number of Workers per Site	Labor per worker per hour	Number of Elections	Total
Deputies	36		4	$ 16.03	3	$ 55,399.68
Labor	36	13	2	$ 16.03	3	$ 360,097.92
Labor	36	13	12	$ 15.00	3	$ 2,021,760.00
Social Security @ 7.65%					3	$ 186,450.21
6 Hour Training Class				$ 15.00	3	$ 7,020.00
					Total annual labor costs:	**$ 2,630,727.81**

Total annual location, paper and labor costs: **$ 12,448,652.81**

Non-recurring, startup costs:

Equipment	Cost	Number of Sites	Qty per Site	Total
Touch-screen machines	$ 4,000.00	13	20	$ 1,040,000.00
Laptops	$ 1,000.00	13	4	$ 52,000.00
Printers	$ 1,000.00	13	1	$ 13,000.00
Tables, chairs, signs, posters, etc…	$ 400.00	13		$ 5,200.00
			Total non-recurring costs:	**$ 1,110,200.00**

Total costs 1st year:	**$ 13,558,852.81**
Total costs 2nd year:	**$ 1,562,724.27**
Total costs 3rd year:	**$ 4,688,172.81**

*** Non-recurring costs**

Officials from the **Kansas City Election Board** indicated the estimated cost to enact this fiscal note in our jurisdiction including temporary employees, supplies, building rental and legal notices would be $80,800.

The officials said as is their practice, additional satellites would need to be set up to handle the demand of early voting. These costs would be allocated to their funding entities (Jackson County and the City of Kansas City).

Officials from the **Platte County Election Board** indicated there would be no direct costs to the Platte County Board of Election Commissioners to implement the proposed changes.

However, there would be additional costs to their county to conduct early voting for six weeks prior to any state and/or federal elections. As currently written in State election law, the county must cover the costs of the Primary and General elections in even years.

Additional costs per election would range from $30,000 to $50,000.00. The majority of the additional costs are labor related for office staff overtime, election judge payroll to man the early voting site, FICA, W-2 preparation for election judges who normally, in an election year without early voting, would not have earned enough to trigger the W-2 requirement, would now trigger the W-2 for the extra hours/days of work.

Officials from the **Jackson County Election Board** indicated:

Central Early Voting Site + 2 Satellites

Annual Cost for Early Voting Coordinator to manage early voting centers, hire part-time personnel to man the early voting centers, track ballot ordering and insure safe and secure transport of memory stick and ballots back to the election board offices:	$35,000.00
Building rental for two additional secure sites. (Based on Current Rental Rates and the cost of installing a security system and new locks on each building):	$70,000.00
Installing an internet connection to two sites to connect to the Missouri Central Voter Registration Database:	$ 1,800.00
Election Services Fund	$ 14,476.00
Miscellaneous Supplies & Expenses	$ 5,000.00
Ballot printing and ballots to insure paper ballots will be available for the voters if they choose not to utilize the ballot marking device:	$15,000.00
Legal Notices for Early Voting Site Locations	$20,000.00
Election Judges for two off-site locations for 6 weeks prior to the election, plus weekend overtime for full-time employees:	$60,000.00
	$221,276.00 (per election)

ONE TIME COST FOR SET-UP OF EARLY VOTING SITES

Three (3) Additional Precinct Ballot Counters	$ 20,000.00
30 OVI's Electronic Ballot Marking Devices	$145,000.00
6 Laptops	$ 5,000.00
36 Voting Booths – Including ADA Booths	$ 5,000.00
	$175,000.00

The cost for the Jackson County Election Board could increase or decrease depending on the number of sites required by law.

This fiscal note is based on one central satellite location and two off-site locations.

Darryl Kempf, County Clerk for Cooper County provided the following information:

Assumptions are being made by others that Early Voting can be performed by the County Clerk and current staff. Thus their assuming no additional cost.
That is wrong as my staff all have full time responsibilities now.
The space in the County Clerk's office is too small to conduct voting as the central vote early location. An additional location will be required to be found and used.

Costs

Elections

ESTIMATED COST OF EARLY VOTING ELECTIONS FOR COOPER COUNTY

1) Additional staffing in the office is going to be required to oversee the coordination of an Early Voting process

Part time Assistant Office Administrator $ 6,700.00
2 month time is conservative with Early Voting starting 6 weeks prior to election.
Using $40,000 Annual as basis

One part time Office Clerk $ 3,800.00
Using $24,000 Annual as basis
To make available to any requester a list of voters who have already cast a ballot. Such list….. and shall be made available promptly after a request.
Again conservative figure as requesters will come out of the woodwork. Every candidate, every political party, every PAC plus individuals will be make daily if not hourly requests for such list of voters.

Overtime Voter Registration Clerk $ 1,000.00
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State Total Startup Costs				$2,530,700.00
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Officials from the **Office of Administration (OA)** indicated this proposal will have no fiscal impact on their office. Budget and Planning defers to the Secretary of State's office for statewide costs of election authorities.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

This specific petition establishes an early voting period for all federal and state general elections in Missouri. Due to the language in paragraph 5 of section 8, state costs may include only the necessary costs for changing the computerized Missouri Voter Registration System so that lists can be made available of voters who cast ballots during the early voting period. Due to the small amount of changes that are needed, these costs are minimal.

If state appropriations are made to fund the implementation of these provisions, these funds, like others in the past, will likely be appropriated through the secretary of state’s office to the local election authorities. Other costs, whether they are classified as state costs due to the appropriation avenue or classified as local election authority costs, are as follows:

Assumptions relied on with these other costs include:
-293 hours open for early voting per site (central voting location and satellite locations)
-116 central vote early locations, 13 satellite voting sites per November 2013 voter count, and 14 satellite voting sites per November 2012 voter count (Using November 2012 and 2013 voter counts as estimate due to fact that the number of registered voters at time of implementation of this petition is currently unknown)
-Each central vote early location will be staffed by at least two election judges, paid $9 per hour
-Maintenance costs (including rent, utilities, and broadband internet service) of $1,890 per satellite location
-One time startup costs may be incurred for the purchase of equipment necessary for the general election satellite locations, including accessible voting machines for disabled voters, laptop computers and printers. However, some local election jurisdictions with satellite requirements may be able to use existing equipment for the satellite locations. Due to this ability, these potential startup costs fluctuate between jurisdictions and are difficult to estimate (however, they will likely range from $0 to $14,100 per satellite site).

ONGOING COSTS

Election Judge Cost per site ($9 x 293 hours)	$5,274	
Cost for Election Judges at Central Sites	$611,784	
Cost for Election Judges at Satellites per 11/13 voter counts	$68,562	
Cost for Election Judges at Satellites per 11/12 voter counts	$73,836	
TOTAL ELECTION JUDGE COSTS per 11/13 Voter Counts		$680,346
TOTAL ELECTION JUDGE COSTS per 11/12 Voter Counts		$685,620
TOTAL MAINTENANCE COSTS per 11/13 Voter Counts	$24,570	
TOTAL MAINTENANCE COSTS per 11/12 Voter Counts	$26,460	
TOTAL ONGOING COSTS per 11/13 Voter Counts	$704,916	
TOTAL ONGOING COSTS per 11/12 Voter Counts	$712,080	

After any potential initial startup costs are incurred, each general election cycle will incur the above-detailed ongoing costs, estimated per 11/13 voter counts as $704,916 or, estimated per 11/12 voter counts as $712,080.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated this petition would have no fiscal impact on their city.

Officials from the **City of Kansas City** indicated each election involving the city costs approximately $500,000. They expect that the local election authorities would incur additional costs for mail-in and early voting and that some of those costs would be passed onto them. They do not know what those increased costs would be.

Officials from the **City of St. Joseph** indicated any additional cost associated with Buchanan County's compliance with the requirements of this bill – which mainly seem to be keeping a central voting location open on weekends and late one week night prior to the election - would be shared by their city. Depending on the number of taxing authorities participating in any particular election, the city's share can run from $30,000 to $50,000. Whatever the county reports as it's cost of complying with this bill, the city would bear from 20%-100% of the cost, depending on the election.

Since the city's population is under 175,000, the additional satellite location(s) do not apply.

Officials from the **City of St. Louis** indicated:

The City of St. Louis Board of Election Commissioners estimates that early voting would cost an additional $19,400 to $20,400 per election. The cost breakdown is as follows:

Permanent & Temporary staffing (overtime)	$5,000-$6,000
Poll Workers (staffing satellite location)	$9,500.00
Rent Space	$2,100.00
Deliver Equipment (Transportation)	$800.00
Materials/Supplies	$2,000.00
Total	$19,400-$20,400

(Source: Jeremy Noland, Board of Election Commissioners, November 21, 2013)

Officials from **Metropolitan Community College** indicated this petition would have an adverse impact on their college with increased, but unidentified costs to implement.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

Officials from the **St. Louis County Election Board** indicated:

Upon further review the BOEC feels that this petition, if passed will require the use of paper ballots at each satellite location. We have included the costs of purchasing equipment, printing and delivery of paper ballots. Our M100 ballot counting machines have a limitation of 10 precincts per machine. Since St. Louis County contains about 1,300 precincts, we will need around 130 counting machines at each location. This quantity of machines will increase the space required for a satellite location as well as daily rents. Requiring the use of paper ballots dramatically increases the cost as well as operational complexity to the early voting process.

Satellite Site Costs

	Operating Days	Number of Sites	Daily Site Rental	Number of Elections		Total
Site Lease	36	7	$ 400.00	3		$ 302,400.00
Equipment set-up, delivery, pick-up, storage, truck rental fees	(5 deliveries per location @ $500 per de-livery)	7	$ 2,500.00	3		$ 52,500.00
High-speed Internet		7	$ 165.00	3		$ 3,465.00
24 hour security services	36	7	$ 240.00	3		$ 181,440.00
					Total satellite costs:	**$ 539,805.00**

Paper Ballot Costs

	Ballots to be printed	Number of Sites	Number of Ma-chines/Ballots per Site	Cost	Number of Elections	Total
m100*		7	130	$ 3,880.00		$ 3,530,800.00
m100 bases*		7	130	$ 700.00		$ 637,000.00
PCMCIA Memory Cards*		7	130	$ 12.00		$ 10,920.00
Paper printing		7	100,000	$ 0.26	3	$ 546,000.00
Ballot delivery costs		7		$ 600.00	3	$ 12,600.00
Ballot Return Costs		7		$ 450.00	3	$ 9,450.00
					Total non-recurring paper costs:	**$ 4,178,720.00**
					Recurring paper costs:	**$ 568,050.00**

Part-time labor

	Operating Days	Number of Sites	Number of Workers per Site	Labor per worker per hour	Number of Elections	Total
Deputies	36		4	$ 16.03	3	$ 55,399.68
Labor	36	7	2	$ 16.03	3	$ 193,898.88
Labor	36	7	12	$ 15.00	3	$ 1,088,640.00
Social Security @ 7.65%					3	$ 102,352.30
6 Hour Training Class				$ 15.00	3	$ 3,780.00
					Total annual labor costs:	**$ 1,444,070.86**

Total annual location, paper and labor costs: **$ 6,730,645.86**

Non-recurring, startup costs:

Equipment	Cost	Number of Sites	Qty per Site	Total
Touch-screen machines	$ 4,000.00	7	20	$ 560,000.00
Laptops	$ 1,000.00	7	4	$ 28,000.00
Printers	$ 1,000.00	7	1	$ 7,000.00
Tables, chairs, signs, posters, etc...	$ 400.00	7		$ 2,800.00
			Total non-recurring costs:	**$ 597,800.00**

Total costs 1st year:	**$ 7,328,445.86**
Total costs 2nd year:	**$ 850,641.95**
Total costs 3rd year:	**$ 2,551,925.86**

*** Non-recurring costs**

Officials from the **Kansas City Election Board** indicated the estimated cost to enact this fiscal note in our jurisdiction including temporary employees, supplies, building rental and legal notices would be $48,400.

The officials said as is their practice, additional satellites would need to be set up to handle the demand of early voting. These costs would be allocated to their funding entities (Jackson County and the City of Kansas City).

Officials from the **Platte County Election Board** indicated there would be no direct costs to the Platte County Board of Election Commissioners to implement the proposed changes.

However, there would be additional costs to their county to conduct early voting for six weeks prior to any state and/or federal elections. As currently written in State election law, the county must cover the costs of the Primary and General elections in even years.

Additional costs per election would range from $30,000 to $50,000.00. The majority of the additional costs are labor related for office staff overtime, election judge payroll to man the early voting site, FICA, W-2 preparation for election judges who normally, in an election year without early voting, would not have earned enough to trigger the W-2 requirement, would now trigger the W-2 for the extra hours/days of work.

Officials from the **Jackson County Election Board** indicated:

Central Early Voting Site + 2 Satellites

Annual Cost for Early Voting Coordinator to manage early voting centers, hire part-time personnel to man the early voting centers, track ballot ordering and insure safe and

secure transport of memory stick and ballots back to the election board offices:	$35,000.00
Building rental for two additional secure sites. (Based on Current Rental Rates and the cost of installing a security system and new locks on each building):	$35,000.00
Installing an internet connection to two sites to connect to the Missouri Central Voter Registration Database:	$ 900.00
Election Services Fund	$ 8,673.00
Miscellaneous Supplies & Expenses	$ 3,000.00
Ballot printing and ballots to insure paper ballots will be available for the voters if they choose not to utilize the ballot marking device:	$10,000.00
Legal Notices for Early Voting Site Locations	$10,000.00
Election Judges for two off-site locations for 6 weeks prior to the election, plus weekend overtime for full-time employees:	$30,000.00

$132,573.00 (per election)

ONE TIME COST FOR SET-UP OF EARLY VOTING SITES

Two (2) Additional Precinct Ballot Counters	$ 14,000.00
20 OVI's Electronic Ballot Marking Devices	$ 97,000.00
4 Laptops	$ 4,000.00
26 Voting Booths – Including ADA Booths	$ 3,000.00

$118,000.00

Darryl Kempf, County Clerk for Cooper County provided the following information:

Assumptions are being made by others that Early Voting can be performed by the County Clerk and current staff. Thus their assuming no additional cost.
That is wrong as my staff all have full time responsibilities now.
The space in the County Clerk's office is too small to conduct voting as the central vote early location. An additional location will be required to be found and used.

Costs

Elections

ESTIMATED COST OF EARLY VOTING ELECTIONS FOR COOPER COUNTY

1) Additional staffing in the office is going to be required to oversee the coordination of an Early Voting process
   Part time Assistant Office Administrator $ 6,700.00
   2 month time is conservative with Early Voting starting 6 weeks prior to election.
   Using $40,000 Annual as basis

   One part time Office Clerk $ 3,800.00
   Using $24,000 Annual as basis
   To make available to any requester a list of voters who have already cast a ballot. Such list….. and shall be made available promptly after a request.
   Again conservative figure as requesters will come out of the woodwork. Every candidate, every political party, every PAC plus individuals will be make daily if not hourly requests for such list of voters.

   Overtime Voter Registration Clerk $ 1,000.00
   Using $35,000 Annual as basis
   5 Hours on each Saturday and Sunday for the 3 weekends in the twenty-one days immediately prior to the election. 3 Hours on the last Thursday during the early voting period. 5 Hours following the close of early voting on the Monday immediately prior to election. This is a conservatively generous figure as will probably require more staff and hours following the close of early voting on that Monday.

   Additional part time Office Clerk $ 4,200.00
   Using $25,000 Annual as basis
   To oversee assignment of election judges on a daily basis. To manage payroll for election judges.

2) Election Judges working during the Early Voting period $ 12,540.00
   Election Judges are current paid $85 as Supervisor and $80 for others. These are conservative amounts. Many County Clerks and Election Authorities pay better than this. I should be raising

them in my county. This is below minimum wage. If minimum wage is required the cost will go higher.

29 work days during usual work week. 6 work days for the 3 weekends. Weekends should be time and half of the weekend amount.

Unsure if will be required to have 2 election judges at the central vote early location or 4? Initiative petition states the local election authority shall appoint at least one election judge from each major political party. Which could leave 2 judges? That will be more election judges if more than 2 political parties. Also initiative petitions goes on to state. Procedures for appointing judges for central voting early locations …. shall be as provided in the general election law. Which I interpret as requiring 4 election judges per location.

3) Social Security on $28,240.00 @ 7.65 percent $ 2,160.00

4) Other employee benefit costs $??.??

5) Voting supplies. Included but not limited to DRE programming (Touch screen voting devices), direct phone line and others. $ 5,000.00

6) Start up election Equipment including but not limited to Electronic Poll Books, Computer, direct phone line and others. $ 4,500.00

7) Voting location rent $ 3,000.00

COST FOR CENTRAL VOTE EARLY FOR COOPER COUNTY

$42,900.00

With the additional duties and responsibilities certainly another reason to separate the office of County Clerk and Election Authority in every county not currently authorized to do so.

Cooper County a 3rd Class County

Approximately 11,000 Active Registered voters

Population 17,601 according to 2010 Census

There are 114 counties and one independent city (St. Louis) in the state of Missouri.

With consideration that cost of each election authority were no more than that of Cooper County.

115 X $42,900.00 = $4,933,500

Peggy Kenney, County Clerk for Cedar County on behalf of the Missouri Association of County Clerks and Election Authorities provided the following information:

EARLY VOTING FISCAL NOTE
FOR
INITIATIVE PETITION 14-067

	Election Board (6 Boards)	1st Class (Counties)	2nd Class (Counties)	3rd Class (91 Counties)
Annual Recurring Costs				
Satellite Site Costs	420,305.00	385,000.00	140,000.00	279,000.00
Part-time Labor	1,709,070.00	550,000.00	144,000.00	2,827,200.00
Voting Supplies & Publications	138,000.00	253,000.00	48,000.00	558,000.00
Total Annual Recurring Costs	2,267,375.00	1,188,000.00	332,000.00	3,664,200.00
State Total Recurring Costs				$7,451,575.00
Non-Recurring, Startup Costs				
Equipment	715,800.00	825,000.00	30,000.00	418,500.00
Total Startup Costs	715,800.00	825,000.00	30,000.00	418,500.00
State Total Startup Costs				1,989,300.00
Grand Total Costs 1st Year				$9,440,875.00

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, St. Louis Community College, St. Louis City Election Board,** and **Clay County Election Board**.

Fiscal Note Summary

State government would have unknown costs and local governments could have total startup costs of up to $2 million and total on-going costs ranging from $705,000 to $7.5 million for each election cycle depending on election authority compensation, staffing, and planning decisions.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-078)

Subject

Initiative petition from Aaron Willard regarding a proposed constitutional amendment to Article X. (Received December 6, 2013)

Date

December 26, 2013

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union, the City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **State Tax Commission.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

The proposal repeals the earnings and income tax and replaces it with a decreased income tax in addition to an increased sales tax. The language states that the rates of tax levied shall be recalculated and renewed every year to produce an amount of revenue equal to the decrease in revenues as a direct result of the repeal of the earnings and income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the impact of an increased sales tax on purchases within the state is unknown. We defer to DOR in that regard.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this petition and have determined the provisions of this proposal would not impose either a cost or savings on their department. While the revisions of the tax law could have a substantial impact on the funds available to the MDHE and institutions of higher education, there would be no direct cost or savings.

Officials from the **Department of Health and Senior Services** this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to the department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. They will defer to the Department of Revenue for any impact to state revenue.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal which deals with income taxes.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Revenue** indicated this proposal would increase costs for their department by $200,696 for fiscal year 2015, $384,003 for fiscal year 2016.

This amendment may increase state sales tax. It is unknown if this increase will impact small businesses.

The IT portion of the fiscal impact is estimated with a level of effort valued at $58,422. The value of the level of effort is calculated on 2,140 FTE hours.

This amendment reduces individual income tax rates and will reduce Total State Revenue by an estimated $1.5 billion in the first full effective fiscal year. If this reduction reduces revenues, the General Assembly is required to increase the state sales tax to make up the difference in lost revenue and renew the increase each year after. To counteract this loss of revenue due to individual income tax rate reduction, the sales tax rate would increase to approximately 6.684% from the current 4.225% to make up for the projected reduction in individual income tax.
This amendment decreases Total State Revenue until the General Assembly enacts the state sales tax increase.

Section 1(a)
This provision prohibits the General Assembly from enacting laws that impose a tax on income beginning with tax year 2015, except as provided in sections 1(a) to 1(d) of this amendment. Additionally, it prohibits the general assembly from authorizing political subdivisions the power to impose tax on income except those taxes that were enacted or imposed by a city before January 1, 2015, and renewed by voters.

Section 1(b)
This section repeals the existing income tax except those imposed by 1(c) and any tax imposed by a city before January 1, 2013. The Director continues to collect taxes in effect before January 1, 2015.

Section 1(c)
Beginning January 1, 2015 the amendment imposes a tax on:

Married filing joint returns or heads of household:

Missouri taxable income not over $30,000	3.0%
Missouri taxable income over $30,000	4.9%

All other individuals:

Missouri taxable income not over $15,000	3.0%
Missouri taxable income over $15,000	4.9%

Administrative Impact

Personal Tax:

A change in income tax rates will require two Revenue Processing Technicians I for every 2,400 pieces of correspondence and 19,000 errors generated

Collections & Tax Assistance (CATA)**:**

CATA requires two Tax Collection Technicians with CARES equipment and Revenue Processing Technician with CARES equipment to respond to additional contacts in response to tax rate changes and taxable income changes.

ITSD-DOR:
New Tax Rates -504 hours; 2 tiers for married and head of household; 2 tiers for other filers

Section 1(d)
This section defines Missouri taxable income. Missouri taxable income excludes net profits from business reported on a Schedule C, net income from rental real estate royalties, partnerships, S-corporations, estates, trusts, and net farm rental reported on Schedule E, and net farm profit reported on Schedule F.
Administrative Impact
ITSD-DOR:
New subtraction for business profits -504 hours
New subtraction for schedule E and line 17 of federal (rental, S Corp, etc.) -504 hours
New subtraction for net farm profit -504 hours

Section 1(e)
The provisions of this section require the General Assembly to enact sales tax increases, expansions of the base, or both without voter approval if net individual income tax revenues decrease due to provisions of sections 1(a) through 1(d).

When the General Assembly enacts the state sales tax rate increase or expands the base to offset the loss of revenues from the income tax change, the state sales tax rate would need to be raised from the current rate of 4.225% to 6.684% each year after following a decrease in state revenues.

Administrative Impact
Collection & Tax Assistance (CATA):
CATA may see additional registration and customer phone calls if the sales tax base is expanded or the rate is increased. This will require two Revenue Processing Technicians with CARES equipment to respond to additional contacts and registrations.

Sales Tax:
This amendment requires the General Assembly to increase the rate of sales tax, expand the base of the sales tax, or both if individual income tax revenues decrease. The department will need to send rate change letters to all registered businesses each time the General Assembly increases the sales tax rate. If the General Assembly expands the base, the department may be required to register new businesses not currently collecting tax or to inform businesses that some of the nontaxable products have been determined to be taxable. The department will need to adjust forms, procedures, and website.

The impact to the department depends on how the General Assembly expands the base. The department would potentially need to send letters, make programming changes, and register new businesses every year, because the rate and expansion of the base must be recalculated and renewed each year for it to continue.

Motor Vehicle Bureau:
Procedures will need to be revised by a Management Analyst Specialist I requiring 40 hours at a cost of $840 in FY 15.

Two overtime hours for each system change will be required for a total of 10 hours by a Management Analyst Specialist I at a cost of $210 each in FY 15.

ITSD-DOR:
Sales Tax rate change - 124 hours

Postage:
Costs associated with notifying approximately 150,000 sales/use tax filers of the rate change:

Letters:	$ 0.0255	x 150,000 =	$ 3,825
Envelopes:	$ 0.04	x 150,000 =	$ 6,000
Postage:	$ 0.39	x 150,000 =	$ 58,500
TOTAL			$ 68,325

Section 1(f)
This provision empowers the General Assembly to enact laws that provide for the administration and collection of taxes authorized in this amendment.

Section 4(d)
The amendment modifies language in this section to eliminate provisions that authorize the General Assembly to impose a tax or set rates.

Comments:

This amendment would not come to a vote of the people until November 2014. With an effective date of January 1, 2015, this would give the department less than 60 days to implement the required changes. This would not be a sufficient period of time to make rate changes to the tax systems and forms in preparation for the Tax Year 2014 filing.

Section 1(c)
Taxpayers with taxable income of $6,000 or less will see a tax increase under these new tax rates. This may also create a substantial increase for those taxpayers with taxable income above the $15,000 or $30,000 threshold. Those taxpayers making just over the cutoff amount will be pushed into the higher income bracket. This will create an additional burden for those taxpayers.

Section 1(c)(i)
By establishing a separate threshold for taxpayers filing a joint Missouri return or those filing as a Head of Household, this calculates the tax based on the combined total of both spouses. Currently, each spouse's income is reported jointly and the tax is calculated on each spouse's income.

In Missouri currently, the filing of a combined return provides that "[t]he tax liability of the two taxpayers shall be separate and not joint and several." Section 143.491.1, RSMo. "Joint return" provides that under "general principles of federal income tax law, a husband or wife is jointly and severally liable for any deficiencies, penalties and interest assessed against his or her spouse regarding a joint income tax return, unless he or she was an innocent spouse." *U.S. v. McKinney*, 686 F.3d 432 (7th Cir. (Ill.), 2012).

Missouri has no provision for an innocent spouse request as does the Federal government under Title 26 U.S.C. Section 6015, which only allows a minority of spouses to take advantage and not be held liable for the combined tax liability of both spouses.

Section 1(d)
The definition for "Missouri Taxable Income" is ambiguous. As provided by this section, the term will need to be defined by law, but shall not include net profits from business, net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, and net farm income, or net farm profit. Until the General Assembly acts, the language may be construed to mean gross income with no deductions or exemptions.

The department recommends defining "net profits from a business," "net income," and "net farm profits." It is unclear if net losses are included in the calculation of Missouri taxable income.

Section 1(e)
The department recommends defining the term "net individual income tax revenues collected." It is unclear if this means the gross amount or net amount of revenue collected after refunds.

The General Assembly is not required to implement the state sales tax increase until the decrease from the individual income rate reduction is determined. This will cause a serious cash flow problem for the state in FY 2015 and FY 2016.

The recalculation of this tax is determined by comparing the decrease in net individual income tax revenues collected in the immediate prior tax year against the 2014 net individual income tax revenues collected. Recalculating the increase in state sales tax in this manner may limit the increase as taxable income grows. However, this language is ambiguous and may be read as requiring the recalculation to be determined by the difference of the decrease in revenues from the prior tax year and the net individual income tax calculated at the rate prior to the decrease.

It is also unclear if the 2014 net individual income tax revenues collected is based on the tax, fiscal, or calendar year. This may cause confusion in the recalculation process.

Officials from the **Department of Public Safety** indicated there is no fiscal impact due to this initiative petition for their department.

Officials from the **Department of Social Services** indicated this amendment could affect total state revenue, but it is impossible to predict the fiscal impact to any one state department, including the Department of Social Services (DSS), because the funding available to DSS in any given year is dependent on the appropriations process.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.
Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration (OA)** indicated this proposal will have no impact on the Office of Administration, or Budget & Planning (BAP).

Regarding the state individual income tax:

- This proposal supersedes the existing ten marginal tax rates, and replaces them with two sets of marginal rates. For single taxpayers, the tax shall be 3% on income less than $15,000, and 4.9% on income above this threshold. For joint returns and those filing as heads of household, the income threshold is doubled to $30,000.

    - BAP notes that under current statutes, married filers file combined returns, as opposed to the joint returns filed for federal income taxes. Additionally, taxpayers filing combined returns separate their incomes, and then calculate tax on each taxpayer's proportion of income. It is unclear if the intent of this proposal is to continue this practice, or instead for married taxpayers to merge their incomes into one amount for the calculation of tax.

- This proposal excludes various sources of income from state taxable income, including net business profits reported on Schedule C and line 12; net partnership, royalty, and other income on Schedule E and line 17; and net farm profit on Schedule F and line 18.

    - BAP notes that the phrases "net profits from a business," "net income," and "net farm profits" are not clearly defined in this proposal. In particular it is unclear if or how taxpayers are to include any net losses for the purposes of calculating income tax.

    - This proposal does not change the corporate income tax. The tax rate on corporate income remains 6.25%. This may encourage corporate taxpayers to change their filing status so that they may file as partners through the individual tax system. This may further reduce general and total state revenues.

BAP estimates the income tax proposal will reduce general and total state revenues annually by amounts that could exceed $1.5B. This estimate is based on net individual income tax liabilities reported for tax year 2011.

Because the changes to income tax are effective January 1, 2015, cash flow impacts will begin to be realized no later than February 2015, as taxpayers make adjustments to amounts withheld from earned income.

The general assembly shall levy an additional sales tax, or broaden the existing sales tax base, to recover the revenues directly forgone by the changes to the income tax, as compared to 2014. BAP assumes for this analysis that "2014," as the figure is used in section 1(e) means Tax Year 2014, but this is not clear from the proposal; for example, the figure could be interpreted as Fiscal Year 2014.

Gross general revenue sales tax collections in FY 13 totaled just under $1.9B, at a tax rate of 3%. Therefore, to recover the lost revenues noted above, this sales tax rate would have to be increased by at least 2.37%. Further, any new sales tax is to be recalculated and renewed on an annual basis. Technical Note: This petition does not reference use tax. If use tax is increased, like sales tax, the use tax increase will not be exempt from the 18e calculation.

The state will forgo several billion dollars of general revenue before the new sales tax can be implemented.

- The reduced tax rates go into effect Jan. 1, 2015. While this change will ultimately impact tax liabilities due April 15, 2016, taxpayers will reduce withholdings and estimated payments throughout Calendar Years 2015 and 2016.

- The DOR will not have "final" data on Tax Year 2014 collections until at least late October 2015, following the due date for extended filings. Similar data for Tax Year 2015 will not be available until late October 2016. Therefore, it will be at least October 2016 before DOR can determine if net individual income collections have been reduced as a direct result of this proposal.

- Since the General Assembly would not be authorized to increase the sales tax until October 2016, it would likely be at least January 2017 before any additional sales tax would be levied, depending on how quickly the General Assembly enacted the sales tax.

  Going forward, there is some uncertainty as to how the "recalculation" required in future tax years is to be accomplished.

- The language might be interpreted to mean that for each tax year, DOR is to collect taxes at the proposed rates and compare these collections to Tax Year 2014 collections. In this case, the difference between subsequent years' collections and Tax Year 2014 would likely grow smaller each year, assuming taxable income grows, until there is no longer any difference and the sales tax increase is no longer necessary. This would effectively

provide an anchor on general revenues for several years. It is uncertain how this calculation would be impacted if taxable income declines as the result of a recession or other economic troubles.

- Or, the language might be interpreted to mean that for each tax year, DOR is to collect taxes at the proposed rates, then calculate what net individual tax would have been under the previous tax schedule. The difference in these calculations would be the basis for the additional sales tax.
- In either case, these calculations will become increasingly complicated in future years, as both the General Assembly and/or Congress amend the definition(s) of taxable income.

Therefore, BAP estimates this proposal will reduce general and total state revenues by an amount that could exceed several billion dollars in aggregate during FYs 2015 and 2016, and until the general assembly enacts and DOR is able to administer the additional sales tax.

Observations:

- This proposal would increase tax for individuals reporting the lowest amounts of taxable income, i.e. those with incomes under $3,000, upon which the current marginal tax rate is less than 3%. This impact is compounded by the increase in sales tax.

- The proposal no longer allows the general assembly to impose a tax on individual income beyond that described in this proposal. However, the general assembly may define taxable income, and may reference federal law when doing so. Depending on when this petition is passed by the voters, statutory updates may need to occur outside the regular legislative session.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office

assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office other than if revenues are significantly changed.

Officials from the **Office of the State Treasurer** indicated no fiscal impact to their office.

Officials from the **City of Columbia** indicated it is not possible to identify a specific fiscal impact, although the proposal could decrease the predictability of local revenues, repeal tax-generating tools currently available to voters and create confusion if the General Assembly is in the position of adjusting tax rates annually.

The City of Columbia received approximately $538,000 in state grants in fiscal year 2012 (October - September); while this is not a guaranteed annual sum, it represents a potential resource that could be in jeopardy.

Officials from the **City of Jefferson** indicated the proposed change in state income tax would have no direct fiscal impact on their city. However, as the fiscal impact to the state of Missouri is unknown, any residual consequences to the city both as a political subdivision of the state as well as the state's capital are also unknown.

Officials from the **City of Kirkwood** indicated they do not know if there will be a fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **Hannibal School District No. 60** indicated that they are opposed to the subject Initiative Petition. If passed, the proposed petition would have a negative impact on state revenue and public school funding.

Officials from the **State Tax Commission** indicated they have determined this does not directly have a fiscal impact on their agency.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Labor and Industrial Relations,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators**, **Jasper County, St. Charles County, St. Louis County, Taney County**, the **City of Cape Girardeau**, the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville**, the **City of Mexico**, the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield**, the **City of Union**,

the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri**, the **St. Louis Community College,** and the **Public Service Commission.**

Fiscal Note Summary

State government entities estimate this proposal reduces state revenue by several billion dollars during the first two affected fiscal years. The legislature is required to increase state sales tax revenue to replace a calculated decrease in net individual income tax revenue resulting from this proposal and recalculate and renew changes yearly.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-079)

Subject

Initiative petition from Brad Ketcher regarding a proposed constitutional amendment to Article III. (Received December 11, 2013)

Date

December 31, 2013

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

Marc Ellinger provided information as an opponent of the proposal to the State Auditor's office.

Brad Ketcher on behalf of Ballot Measure Group, LLC provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Higher Education** indicated they have determined the estimated cost or savings are zero to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they foresee no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal has no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office beyond existing appropriations.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

This specific petition prohibits the counting of a genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter. These signatures are still subject to the other requirements set forth in Chapter 116 that require a certain form of the petition itself and that set forth submission procedures for the petition (i.e. pages are submitted all at one time, in order, and numbered sequentially by county and every page has the full text of the proposed

measure attached). The signature pages of the petition also are required to be submitted in the approved form of the sample petition. Additionally, it is assumed that the "genuine signature" language used in the petition will prohibit the counting of signatures that the registered voter does not personally sign, including certain electronic signatures. This assumption is consistent with the requirements of Section 116.130, RSMo, in checking signatures against voter registration records and continuing the current process of signature verification.

Due to these other restrictions and the above assumptions, there should be no significant costs or savings other than the stated publication costs.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Columbia** indicated this bill appears to have no fiscal impact on their city.

Officials from the **City of Kansas City** indicated this initiative petition has no impact on the city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Cape Girardeau 63 School District** indicated they are unaware of any cost or savings that this measure would have on their school district.

Officials from the **Missouri Ethics Commission** indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $119,835 for FY 2015, $122,216 for FY 2016, and $123,464 for FY 2017.

Prohibiting a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo., about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in 105.456, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.

- Respond to written complaints, as established in Section 105.955.14, RSMo., through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo., about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo., through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly to accept lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo., about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo., through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo. about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and

coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.

- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo., through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

Marc Ellinger provided the following information as an opponent of this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Brad Ketcher on December 10, 2013.

In 2012, the State Auditor's Office issued a Fiscal Note (11-35) for an initiative that limited campaign contributions. In that fiscal note, both the Department of Revenue and the Missouri Ethics Commission indicated there would be additional costs to their departments. The Auditor's Office issued the following Fiscal Note Summary:

> It is estimated this proposal will increase state government costs by at least $127,000 annually and result in one-time costs of about $28,000. Any potential impact to state government revenue could not be determined. It is estimated this proposal will have no costs or savings to local governments.

This fiscal note summary vastly underestimates the costs to state and local governments as a result of the proposed measure. We urge you to adopt a different fiscal note for this proposed measure on the basis of the data you will find herein. Not only will there be direct costs to state agencies as indicated in Fiscal Note 11-35 but there will be widespread effects on the Missouri economy. Each election cycle, candidates spend millions of dollars in Missouri. Limiting the total amount of contributions will limit the total amount of money candidates will raise, and therefore will decrease the amount of campaign spending in Missouri. Currently candidates spend thousands of dollars on payroll for campaign workers, thousands of dollars in payroll and income taxes paid directly to the State of Missouri, they spend money for lodging and food at local Missouri businesses, their media purchases support Missouri media companies, and they purchase printing, supplies, utilities, and more in Missouri. Not only do many of these expenditures directly yield state and local tax revenues, but through the multiplier effect, these dollars are spent and re-spent within our state and local economies. Limiting campaign

contributions would significantly reduce campaign spending in Missouri and have a serious negative fiscal impact to both the state and local governments.

Economic Impact of Campaign Spending

To date, there has not been a comprehensive study regarding the fiscal impact of state elections on Missouri state and local governments. However, there is research on the fiscal impact of election spending. One such study sought to determine how campaign spending affects earnings in service sectors.[1] More specifically, the study sought to determine how income growth is affected by the presence of a primary.

The study concluded that the presence of the primary not only increases overall income, but also income in service-related sectors. The authors found a 41% increase in quarterly income growth rate in quarters where there is primary spending.

The authors point out that states with primaries tend to see between $500,000 and $19 million in spending during an election cycle, which is enough to "modestly boost local income growth." Primary spending increases total income growth by 0.53 percentage points. The effect is higher in the services sector, where growth is increased by 0.76.

The study also points out that there would be a "multiplier effect" which the authors explain as follows:

> For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdressers more. This money will continue to circulate in the state's economy.

In addition, the study finds that Missouri is one of the five states with the highest amount of money spent on campaign expenditures, compared to the total contributions by state residents.

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[1] See Lessem, Rebbeca & Carly Urban, "*Local Economic Growth from Primary Election Spending,*" Working Paper, Carnegie Mellon University, 2012, attached hereto as Appendix A.

The study shows that there is more than twice as much campaign spending in Missouri as is contributed by state residents. This study finds that primary campaign spending increases income growth in a state. "[W]hen individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur)." (emphasis added).

While the Lessem & Urban study does not directly quantify the amount by which Missouri state election campaign spending stimulates the Missouri economy and the economies of Missouri local governments, it does demonstrate that there is significant fiscal impact of such spending.

There is no authority to suggest that the dollars spent at a local print shop, hotel, or restaurant by a presidential primary campaign operate differently in the Missouri economy than if spent by a campaign for state senator or state representative. And while increased election spending has a positive effect on a state's economy, drastically reducing election spending will have a correlated negative effect on the economy. We can examine data from the Missouri Ethics Commission to see the true impact of limiting campaign contributions.

2014-032's Effect on Nixon 2012

In order to understand the effect of 2014-079, we can examine a previous measure's effect. 2014-032 would limit campaign contributions to statewide elected officials, state senators, and state representatives to $2,600. In 2012, Jay Nixon ran a successful re-election campaign for Governor. While his campaign spent money in the years leading up to 2012, we have limited our analysis to a single year. First, we will examine contributions. In 2012, alone, Nixon's candidate committee received donations ranging from eleven cents to $500,000.00. More than 40% of the contributions to Nixon's campaign came from out of state.

Nixon 2012	
Contributions from in-state	$4,703,437.39
Contributions from out-of-state	$3,348,067.98
Percentage Total Contributions from Out-of-State	41.58%

Under 2014-032 all candidate committees would be limited to contributions in the amount of $2,600 or less. With the proposed measure (2014-079), contributions to elect an individual to state senator would be limited to $1,000 and contributions to elect an individual to state representative would be limited to $500. While the exact contribution limits may differ, the analysis related to 2014-032 is persuasive for this proposed measure as well.

In 2012, Nixon's candidate committee received a total of $8,051,505.37 in contributions. If you limit each contributor to a previously suggested maximum ($2,600.00), the amount of contributions is significantly less -- $2,207,976.00. That is a decrease in contributions of more than $5.8 million dollars. Only 27.42% of Nixon's contributions in 2012 would have been lawful under a proposed cap on contributions at $2,600.00.[2]

Nixon 2012	
Total Contributions	$8,051,505.37
Contributions from Candidate Committees	$42,650.00
Contributions in excess of $2,600	$5,800,879.37
Total Lawful Contributions under 2600 Cap IP	$2,207,976.00
Total contributions prohibited under 2600 Cap IP	$5,843,529.37
Percent of lawful contributions of total contributions	27.42%

[2] In looking at the 2012 campaign of Kurt Schaefer for State Senate, a similar percentage (approximately 36%) of his total contributions would have been lawful under the new $1,000 limit.

The next step is to look at where these campaign dollars were being spent. According to the Missouri Ethics Commission, in 2012, Nixon's campaign spent more than $12 million dollars.[3] The expenditures are broken down by categories in the table below.

Nixon 2012		
	Spending (Dollars)	Percentage of Total Spending
Payroll & Field Work	$745,023.80	6.09
Missouri Taxes	$63,404.72	0.52
Federal Taxes	$330,642.56	2.70
Media	$9,181,550.00	75.10
Other Missouri Expenditures	$866,243.68	7.09
Out of State Expenditures	$1,039,072.50	8.50
	$12,225,937.26	100.00

Nixon spent approximately $750,000 on payroll or paying field workers. All of this amount would be subject to Missouri state income tax. The amount of taxes the Nixon campaign paid directly to the State of Missouri is in excess of $60,000. In addition, the Nixon campaign paid more than $300,000 in federal taxes. The cities of Kansas City & St. Louis presumably collected a 1% earnings tax from a portion of that amount. The $750,000 paid to employees would have a significant impact on the economy due to the multiplier effect. Much of that money would be spent on retail sales, generating sales tax for the state and local governments. If all of the people who normally work political campaigns no longer could be employed by campaigns, there would be significant belt tightening by these individuals which would result in additional lost sales tax revenue.

Nixon also spent more than $9 million dollars on "media." All of that money went to an out-of-state media company. Still, traditionally that company coordinates all the media

[3] Nixon had raised significant contributions prior to 2012 for the 2012 election cycle. If the proposed IP had been in effect, the loss of economic activity would be even greater.

purchases, which presumably were with in-state media providers, as Nixon was running for Governor of Missouri. While some of the $9 million dollars could be attributable to media production, the majority of it was likely for paid radio, television, and print advertising in Missouri. The loss of $9 million dollars in the Missouri media market in a single year is significant.

Nixon also paid more than $850,000 to other Missouri individuals or companies. Many of these expenditures were in the services and accommodations sectors. This money supports Missouri businesses and helps fund their payroll.

We have already seen that a similar proposed measure would have reduced Nixon's total campaign contributions by 72.58%. Assuming the proposed measure would decrease spending by the same amount, we can project what Nixon's spending would have looked like with a $2,600 contribution limit in place.

Nixon 2012		
	Spending (Dollars)	Projected Spending with Contr. Limits
Payroll & Field Work	$745,023.80	$204,285.53
Missouri Taxes	$63,404.72	$17,385.57
Federal Taxes	$330,642.56	$90,662.19
Media	$9,181,550.00	$2,517,581.01
Other Missouri Expenditures	$866,243.68	$237,524.02
Out of State Expenditures	$1,039,072.50	$284,913.68
	$12,225,937.26	$3,352,352.00

The proposed measure with the $2,600 cap would have translated into a spending decrease of $8.87 million dollars. Again, for just one campaign for just one year. Even if you assume only 75% of the "media" expenditures affect Missouri's economy, approximately 70% of Nixon's total campaign expenditures affect the Missouri economy. In total, just one year of one

campaign resulted in approximately $8.5 million dollars of expenditures in or affecting Missouri's economy. This estimate does not include the multiplier effect of such expenditures.

2014-079

Although, for this proposed measure, the campaign contribution limits would not apply to statewide elected officials, it does apply to state senators and state representatives. In addition, the limits are significantly lower than 2014-032. Under 2014-079, state representatives would only be allowed contributions less than 1/5 than allowed under 2014-32. The amount for allowable contributions for state senator would be less than half of what is allowed under 2014-032. If anything, the Nixon analysis overstates the amounts that would be allowable under 2014-079.

The Effect on the State of Missouri

According to the Missouri Ethics Commission, total expenditures by candidates that would be affected by the proposed measure were more than $20 million dollars in 2012. Reducing that number by the percentage of allowable contributions we saw with the Nixon campaign (27.42%) translates to a loss of more than $14.5 million dollars due to the initiative petition.

Statewide 2012			
	Spending (Dollars)	Projected Spending with Contr. Limits	Lost Dollars due to IP
Payroll & Field Work	$1,218,000	$333,975.60	$884,042.40
Missouri Taxes	$104,000	$28,516.80	$75,483.20
Federal Taxes	$540,000	$148,068.00	$391,932.00
Media	$15,020,000	$4,118,484.00	$10,901,516.00
Other Missouri Expenditures	$1,418,000	$388,815.60	$1,029,184.40
Out of State Expenditures	$1,700,000	$466,140.00	$1,233,860.00
Projected Effects	20,000,000	5,484,000	$14,516,000

The loss of these payroll amounts impacts state revenues in two ways: (1) the loss of state income taxes on these amounts and (2) the loss of state sales taxes forgone. First, the amount of state income taxes can be estimated taking the total payroll figure, applying the multiplier, and multiplying by the tax rate of .06%. Here, lost income tax revenue would total $265,207.32. In estimating lost sales tax amount, the multiplier must be applied. Previous research has suggested using a local fiscal multiplier of 5.[4] Assuming 35% of the payroll income is taxable spending, the total lost sales tax revenue would be more than $65,000.

With respect to the media spending, assuming only 75% of that translates to Missouri corporate income, and applying the corporate tax rate translates into a loss of approximately $511,000. Also assuming that half of the media spending is paid out to employees in salaries, there would be lost income taxes and sales taxes on that amount. There would be approximately $1,635,227.40 in lost income tax. There would be a corresponding loss of state sales tax revenue from this loss of salary in the amount of $337,048.48. Finally, there would be sales tax lost on the "other Missouri expenditures." Even assuming only half of such expenditures were taxable, applying the multiplier and the sales tax rate, the state would lose $130,326.46 of sales tax revenue. The number of "other Missouri expenditures" is also likely to be greater under the 2014-079 proposal because state senators and state representatives are not as likely to spend as much money out-of-state as are statewide candidates.[5] The total loss to Missouri state government (based on only one year of one election cycle) is at least $3 million dollars.

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[4] A multiplier helps estimate the direct impact, indirect impact and induced impacts. Direct impact includes the payroll dollars being paid. Indirect impact represents the impact of routine consumer spending by those individuals. Induced effects are those changes in spending due to additional (or lost) employment generated by the direct and indirect effects. "Expenditure Multiplier" attached as Appendix B.

[5] In looking at the 2012 campaign of Kurt Schaefer for State Senate, none of his expenditures were out-of-state.

2014-079 Impact on the State	
Lost State Income Tax due to lost campaign payroll	$265,207.32
Lost State Income Tax due to lost media payroll	$1,635,227.40
Lost State Sales Tax due to lost campaign payroll	$65,362.55
Lost State Sales Tax due to lost media payroll	$403,015.42
Lost State Sales Tax on "Other Missouri Expenditures"	$130,326.46
Lost Corporate Income Tax on media companies income	$511,008.56
TOTAL	$3,010,147.71

The Effect on Local Government

In addition, the proposed measure would have a significant effect on local government revenue. In St. Louis and Kansas City, a 1% earnings tax is collected on income. There would be losses associated with both the lost campaign payroll and lost media payroll, in the amounts of $5,745.27 and $35,424.48 respectively.[6] In addition, the average local sales tax rate is 3.45% in Missouri. This rate was applied to the same tax bases as described above, resulting in total lost sales tax revenue of over $450,000. The total loss to local governments as a result of the proposed measure exceeds $500,000.

2014-079 Impact on Local Governments	
Lost Earnings Tax due to lost campaign payroll	$5,745.27
Lost Earnings Tax due to lost media payroll	$35,424.48
Lost Local Sales Tax due to lost campaign payroll	$53,372.97
Lost Local Sales Tax due to lost media payroll	$329,089.51

[6] In 2011, the population of St. Louis and Kansas City as a percentage of total state population was 12.998% according to the U.S. census bureau. Applying this percentage to the total payroll statewide generates an estimate of payroll that would be subject to the earnings and income tax. This estimate will likely underestimate the actual fiscal impact because the earnings tax is collected from all city residents and all non-city residents who work within the city limits.

Lost Local Sales Tax on "Other Missouri Expenditures"	$88,767.15
TOTAL	$512,399.38

Limiting Lobbying Expenditures

The proposed measure also significantly restricts lobbying expenditures. Restricting spending by Missouri lobbyists in Missouri would also affect Missouri's economy. Particularly, restricting lobbyist spending would have a negative economic effect on the City of Jefferson and Cole County, where lobbyists spend the majority of their time from January to May of each year. The Auditor is encouraged to contact both jurisdictions to clarify and quantify that impact.

In 2012, lobbyist gifts totaled $886,236.60. That number equates to more than $187,200 collected in state sales tax and more than $152,875 in local sales tax that would be lost as a result of the proposed measure.[7]

Conclusion

The proposed measure would have a significant negative economic impact on both the state and local governments in Missouri.[8] In just one year, total election spending amounted to almost $50 million in Missouri. Election spending by candidates affected by this measure would amount to more than $20 million. The proposed measure would drastically reduce election spending. State and local governments would lose income and earnings tax revenue and sales tax revenue, not just on the amount of decreased election spending, but much more, due to the multiplier effect. Any estimate of fiscal impact of the proposed measure must include these

[7] These numbers are based on a state sales tax rate of 4.225, a local sales tax rate of 3.45, and a multiplier of 5.

[8] To the extent the Auditor finds the numbers herein "speculative," we request that the Auditor specifically request an estimate from Office of Administration (Budget and Planning) on the negative effects of campaign contribution limitations.

significant losses in order to adequately inform potential signors and voters. We submit the following proposed statement of fiscal impact:

> It is estimated this proposal will increase state government costs by at least $118,000 annually and have an unknown increase in costs for local government entities. The potential negative impact to revenues for state and local governmental entities could be significant, but is unknown.

Local Economic Growth from Primary Election Spending*

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December 4, 2012

Abstract

This paper asks how government and private consumption spending affect earnings in service sectors. To do this, we exploit a natural experiment, using an exogenous form of consumption spending–the money spent while campaigning for a party's Presidential primary nomination. To answer these questions, we create a novel dataset combining the date each state held its primary from 1976-2008, the date in each election cycle in which only one candidate remained, and quarterly state income by sector. Hosting a primary election increases total income, particularly in the accommodations sector. These results remain consistent when using data on primary campaign expenditures across states in the 2004 and 2008 elections.

JEL codes: D72, H30

*The authors acknowledge helpful comments from Dennis Epple, Amit Gandhi, Ken Goldstein, Andrew Reschovsky, John Karl Scholz, Alan Sorenson, and Chris Taber. All remaining errors are our own.

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Appendix A

1 Introduction

Government expenditures have been found to increase employment and income.[1] However, this literature restricts itself to studying investment expenditures in the form of education, health, military, and infrastructure spending, leaving the question, "How does added consumption spending affect income?" unanswered.[2] This paper uses a natural experiment to estimate the relationship between consumption spending and short-run income growth by exploiting exogenous variation in the duration and ordering of Presidential primary campaigns.

In 2008 alone, these campaigns spent $348 million across states on hotels, meals, rental cars, and other campaign expenditures.[3] This figure does not include the amount spent by media covering the race, personal in-state expenses of staffers, or additional funds individuals outlay when coming out to witness the spectacle of a primary race. We use this exogenous spending to determine the short-run income growth when money enters a state economy.

Primary elections are held sequentially by state and each election cycle varies in duration due to changes in the competitiveness of elections. In some years, there is no primary in many states, as the nomination is determined long before each state has its turn to vote for a nominee.[4] For example, in 2004 Senator Kerry clinched the Democratic nomination in March, whereas in 2008 President Obama did not win the nomination until June. In

[1] See for example, Wilson (2011), Shoag (2010), Serrato and Wingender (2010), Chodorow-Reich et al. (2011), Ramey (2011), and Ramey (2011a).

[2] To a certain degree, this question has been addressed in the literature on the economic impact of mega-events such as the Superbowl, Presidential Nomination conventions, and the Olympics, (See Matheson (2006) and citations therein). However, it differs in certain respects, most importantly in that we have a stronger identification stratedy. In primary elections, there is ex-ante uncertainty as to whether or not a state will be reached by primary campaigns, whereas mega-events are planned far in advance. Mega-events allow an area to anticipate additional consumption expenditures and internalize the benefits by increasing up front costs. However, the value of consumption spending in a primary is unanticipated ex-ante and the variance in spending between hosting and not hosting a primary is high, deterring businesses from internalizing the benefits prior to the event. Second, candidates campaign in areas to reach the maximum number of pivotal voters not in the most desirable tourist locations, so it is unlikely that crowd out of the local tourist sector occurs in this setting as in the prior vein of literature.

[3] Authors' calculation based on CRP (2011).

[4] We consider the nomination determined once there is only one candidate remaining in the contest.

particularly long primary elections, local businesses in states that are not normally exposed to primary campaigns receive an exogenous increase in revenue. In addition, many states change their position on the primary calendar between election cycles.

This paper first establishes the exogeneity of campaign spending and economic indicators. Next, we exploit the variation in whether or not a state receives campaign spending in each year to test how this increased spending affects local economies. Specifically, we study how income growth is affected by the presence of a primary in a given state and quarter.[5]

To conduct this analysis, we create a novel dataset of primary and caucus dates from 1976-2008, where we determine if a state held a primary based on the scheduled primary date and the date in which only one candidate remained in each party's election. We pair this primary elections data with quarterly state-level and sector-specific information on personal income levels from the Bureau of Economic Analysis (BEA).

We find that the presence of a primary increases overall income, as well as income in service-related sectors. From 1976-2008, income growth increased by 0.53 percentage points in states with primaries, compared to an average income growth of 1.3 percentage points per quarter. This implies about a 41% increase in the quarterly income growth rate in quarters when there is primary spending. Our results are robust to controlling for factors related to the amount of spending as well as to including state fixed effects. We verify these results using data on campaign expenditures for 2004 and 2008 from the Center for Responsive Politics.[6] In this setting, we find that doubling campaign expenditures increases overall income growth by about 0.05 percentage points (or hosting a primary results in a 35% increase in quarterly income growth rates), and this effect is particularly pronounced in the accommodations sector.

[5]The idea that election outcomes could affect the economy is not new. Snowberg et al. (2007) use prediction market analysis of elections from 1880-2004 to show that electing a Republican President raises equity valuations by 23%. Knight (2006) shows that policy platforms in the 2008 Presidential general election were capitalized into equity prices. No one has previously asked how the act of campaigning can affect the economy.

[6]Data on campaign expenditures are only available for these two years.

We appeal to two distinct literatures in this paper. First, the existence of primary elections provides a new environment in which to study local economic development, through exogenous shocks to consumption expenditures. Recently, scholars and policymakers have expressed interest in the American Recovery and Reinvestment Act (ARRA) spending. Wilson (2011) and Chodorow-Reich et al. (2011) use instrumental variable strategies and find that one new job created costs $125,000 and $26,300 per year, respectively.[7] Asking a similar question Serrato and Wingender (2010) find that an additional job costs $30,000 per year, using an instrumental variables strategy and data on federal investment spending. Similarly, Shoag (2010) uses the idiosyncratic component of state-managed defined benefit pensions to predict government spending. He finds that $35,000 of spending generates one additional job.

In comparison to the papers just mentioned, we avoid the natural endogeneity concern that spending is often allocated to states in the most need of growth.[8] Candidates campaign as to maximize their chances of winning the election, which generally means following the primary calendar. Candidates campaign in states sequentially, and tend to not visit a state until the primary is upcoming. One reason for this is that individual victories create momentum to propel a candidate to his next contest.[9] In addition, candidates also have a disincentive to over-spend in the primary, as they want to save any potential funds for the general election battle, conditional on winning the nomination. For these reasons, the optimal strategy for candidates is to campaign sequentially, meaning that the allocation of funds will depend on the primary schedule and will be exogenous to local economic conditions.

In addition, our paper studies the effect of spending on a different set of sectors than is normally assessed. Most of the ARRA funds were centered around Medicaid and

[7]Chodorow-Reich et al. (2011) find that the jobs resulting from Medicaid spending are concentrated in the state and local government, health, and education sectors.

[8]This is particularly true in the cases of the ARRA spending, though Knight (2002) shows that this can also be true in the transportation sector.

[9]See Abramowitz (1989), Abramson et al. (1992), Mutz (1998), Adkins and Dowdle (2001), Callander (2007), Strumpf (2002), and Klumpp and Polborn (2006) for more on the necessity of momentum in primary contests.

education, and other federal spending initiatives focused on infrastructure investment, energy efficiency, unemployment assistance, and state and local government stabilization (111th Congress 2009). On the other hand, primary spending likely benefits the local economy in the service-related sectors. Another unique feature of our work is that transfers do not entirely come from the federal government, allowing us to study how increases in consumption expenditures in the form of transfers can affect income growth. Primary campaigns are sometimes funded through federal matching, but candidates vying for their party's presidential nomination rely on money from individual donors and from Political Action Committees.[10]

Second, while we establish that the duration of a primary and the time in which states changed their primary dates are uncorrelated with economic indicators, our paper adds to the literature investigating the incentives for states to hold early primaries.[11] States early in the primary process are presumed to have a disproportionate effect on candidate selection by building candidate viability, attracting donors and volunteers, and creating momentum (Abramowitz 1989; Abramson et al. 1992; Mutz 1998). Some work examines the policy benefits of early contests. Taylor (2010) finds no effect, while Knight and Schiff (2010) find that early contests had a 20% greater influence over candidate selection than later contests in 2004.[12] Similarly, Malhotra and Snowberg (2011) find that the order mattered less than pivotal, or competitive, primary contests in 2008. Theoretical work demonstrates that voters can use early contests as cues in determining their vote choices.[13] This paper is the first to investigate the potential economic benefits of having an early

[10]See Section 6 for more on federal funding percentages.

[11]States have a demonstrated interest in holding early primaries. For example, in 2008 Michigan and Florida moved their primaries to January, and this was rejected by the DNC. Democratic candidates agreed to refrain from campaigning in these states, and the delegates were not counted in the candidates' totals. This did not deter Florida from moving its primary up in the order again in 2012, which was this time rejected by the RNC, costing the state half of its delegates (Grice 2012). Thus, moving a primary contest too early can be costly, yet states are still attempting to change their primary dates.

[12]Taylor (2010) uses state procurement data from 1984 to 2004 to show that primary order matters only in competitive nominations when the victorious candidate won that states contest. Knight and Schiff (2010) use changes in prediction markets over the election to identify influence.

[13]See Morton and Williams (2001), Callander (2007), Serra (2011), and Ali and Kartik (2006).

nomination contest.[14]

The remainder of the paper is organized as follows. Section 2 describes the construction of the dataset. Section 3 provides descriptive statistics and motivates our identification strategy. Section 4 explains our empirical strategies and presents our findings. Section 5 discusses the source of campaign funds, and Section 6 provides concluding remarks.

2 Data

We combine institutional details of primary races dating back to 1976 with state-level personal income data from the Bureau of Economic Analysis (BEA), creating a comprehensive Presidential primary and local economic database. In the next 3 sub-sections, we explain how we collected these data. For more information on the specifics of the variables created, including summary statistics, the source of each variable and the calculation of each variable, see Tables 8-10 in Appendix A.

2.1 Primary Information

We hand-collect a thorough database of the dates of each primary or caucus in each state starting from 1976, which is the first year the Democratic National Committee (DNC) and Republic National Committee (RNC) held conventions in their current forms, and ending in 2008.[15] We obtain this information from the Green Papers (for primaries), as well as Frontloading HQ (for caucuses), and confirm these with state election boards when the two are not consistent. When a state's delegates are determined by only state party officials (and not in caucuses or primaries with individual voters), we count this as

[14]A parallel literature looks at the effects of the primary structure on general election outcomes. The primary process may constrain candidates from converging to the position of the median voter, as they will take on more extreme positions to satisfy primary voters who are less moderate than the general population (Geer 1988; Norrander 1989). Malhotra and Snowberg (2011) study the effects of early contests more broadly, including candidates' difficulties of returning to the center in the general after trying to attract primary voters.

[15]This means that individual voters, not party elites, began selecting candidates in each state. The candidate with the most delegates earned the nomination at a national convention.

a case where the state did not have a "primary." In cases where states hold a "beauty contest" nomination, where individual voters choose their favorite candidate but there are no delegates at stake, we count this as having a "primary," as some candidates find it important to win a symbolic victory in these states to gain momentum.[16,17]

Next, we collect information on the date at which the nomination was clinched for each party in each year. We award a candidate the nomination when he is the only candidate left in the contest, meaning that the primary campaigning has ended. This sometimes occurs months before the convention date. Table 1 contains the dates at which candidates clinched the nominations over time. In cases where the incumbent was not challenged in the primary, such as 1984 for Ronald Reagan, we code the primary for that party as "no primary."[18]

Additionally, in certain situations there could be spending for the primary and the general election at the same time. For example, in 2004, when President George W. Bush was the incumbent, he immediately began campaigning for the general election because he had no competition in the primary. During this same time period, Democrats were competing for their party's nomination. Likewise, in 2008 Senator McCain started to campaign for the general election once he clinched the nomination in March, whereas the Democratic primary continued for three additional months. We want to be sure that we are measuring the effect of primary election, not general election, spending. Thus, we collect data on the battleground states for each election cycle, asserting the conventional wisdom that candidates only campaign in battleground states in Presidential general elections (Stromberg 2008; Ashworth and Clinton 2007; Huber and Arceneaux 2007).[19]

[16]States holding these "beauty contests" usually choose their candidate based on conventions and state party officials' decisions. After 2000, there are some instances where there were no delegates at stake, after a state had moved up in the primary process and one of the national committees considered this unconstitutional , i.e. Michigan and Florida in 2008. These two states still had campaigning from the Republicans, so we include them in this context alone.

[17]The primary dates by party for each state and year combination from 1976 to 2008 are available upon request.

[18]All incumbents do not have the luxury of having no opposition in the primary election. For example, President Carter's low approval ratings gave the DNC justification to push other candidates, including Edward Kennedy, to challenge him in the primary contest.

[19]See Section 2.3 for more on spending.

We label a state as a battleground state if the difference in the likelihood the Democratic candidate wins and the Republican candidate wins is ever within 10 percentage points in Intrade prediction markets or polling data (specifically, pollster.com and David Leip's polling report). In earlier elections when polls are more sparsely available (i.e., 1976-1992), we instead look at the races where the candidates' end vote shares were within 10 percentage points of one another.[20] Finally, a state can only be labeled as a battleground state if 1) the election cycle has started and 2) the primary contest in at least one party has been completed (i.e., only one candidate is remaining).[21]

2.2 Income

The BEA reports total personal income in each quarter and state, for each sector of the economy. For the purpose of this paper, we refer to total earnings (excluding government transfers) as total income. We transform this into per-capita values using population data from the US census. In addition to total income per capita, we focus on the sectors where we would expect large effects from primary spending, which are mostly service related sectors. Accommodations and retail are two sectors we focus on, in that the visiting campaign staff and media will need to stay in hotels and make purchases during the campaigns. The accommodations and retail sector accounted for about 5% and 9% of total income in 2008, respectively.

The BEA data is divided into 2 periods: 1974-2001, and 1990-2009, and the sector definitions changed across the two periods. We focus our analysis on the services sector, particularly food and accommodations, because that is where we expect to see the largest effect. In the data from 1974-2001, the BEA only reports total income in the services sector. However, in the 1990-2009 data, they divide services into different groups, including food and accommodations, which we focus on. We therefore do the analysis separately

[20] A list of each state and the years in which the state was a battleground in competitive in the general election is shown in Appendix B.

[21] Conditional on hosting a primary in a given quarter, the probability that a given state is labeled a battleground state in the same quarter is less than 39 percent.

for each period due to these data limitations.[22]

2.3 Campaign Expenditures

We obtain campaign expenditures data for the 2004 and 2008 primary election cycles from the Center for Responsive Politics (CRP), which collects and compiles data from the Federal Election Commission.[23] These data contain information on each expenditure made in House and Presidential races by campaigns, Political Action Committees (PACs), and state parties, where each expense contains a date, location (down to zip code), and information on what the expense entailed (i.e. hotel). We narrow this dataset to include only expenses made in pursuit of the primary nomination by the Presidential candidate's official campaign, i.e. "Barack Obama for President, 2008." We do not include PAC spending as it is difficult to understand for which campaign the PAC is spending its funds (i.e. Presidential or House) in the data.

These data also include information on the division of the campaign in which the expense was made. We create two different measures of expenditures. Campaign expenditures consist of all money spent by the candidate and his direct staff on travel, hotel rooms, and meals, as well as local polling, Get-out-the-Vote campaigns (GOTV), and campaign events. In addition, campaign expenditures include what the campaign calls "administrative expenditures," which includes all money spent on the offices within a state and its staffers. This mostly consists of spending on catering for meetings, rent, utilities, cable, and internet in campaign offices, administrative supplies (associated largely with IT costs), and staffer travels (rental cars, housing, flights, etc.). Total expenditures include all expenses listed under our campaign expenditures measure, as well as money spent on broadcast, radio, and print advertising, along with other media-related costs (i.e., media consultants, production costs of advertisements, and miscellaneous costs related to getting

[22]We attempted to aggregate the 1990-2009 data to get a total measure of income in the services sector. Since the years 1990-2001 are included in both datasets, we can compare to see how similar the two measures are. They are very different, which is why we could not use this aggregated services income in the same analysis as the 1974-2001 services data.

[23]See CRP (2011) for more information on the dataset.

out the message).

The total expenditures are likely to include some expenses that do not directly affect a state's local economy at the time of a primary, though they are expenses made for the primary campaign. For example, the production of an advertisement run in Iowa could be done in California, and thus included in this measure. The production could also be done in Iowa, however, and it is not feasible, given the data, to distinguish the two. Thus, for the remainder of the paper, we choose to focus on the campaign spending measure in favor of the total expenditures measure.

We expect that campaign expenditures are a good proxy for the candidate's travel and the campaign's direct expenses. However, the administrative portion of the campaign expenditures are likely a lower bound for the amount of money staffers spend in each state during the campaign. For example, if campaign staff goes to a restaurant in the evening, this will not be covered as a campaign expense, especially if the meal includes alcohol. This spending amount is a lower bound for total exogenous spending in the area, since national news and media crews also tend to follow and cover the primary schedule state by state. Even with this lower bound, states with primaries tend to see between one half a million and 19 million dollars in spending over an election cycle. Comparing this to the median total income in the retail and accommodations sectors, 7.14 and 3.3 billion respectively, this is still enough money to modestly boost local income growth.[24]

3 Descriptive Statistics

In this section, we first argue that the timing and existence of a primary campaign is exogenous to local economic growth. We next look at the campaign expenditures data from 2004 and 2008 to establish that there is more spending during primary campaigns.

[24]If we instead use total expenditures instead of campaign and administration expenditures in the analysis that follows, our results are slightly smaller in magnitude, though they remain substantively similar to the estimates provided. These results are available upon request.

3.1 Exogeneity of Primary Campaigns

The identification strategy in this paper comes from the orthogonality of primary campaign spending in a given state and the state's local economy, where the nature of primary contests gives candidates an incentive to campaign sequentially. Since this money is not targeted to states with the most need, the shock to consumption expenditures generated from primary campaign spending is exogenous to income levels. Iowa's primary is always first in the election cycle, so the state should expect the millions of dollars spent in local businesses by the Presidential campaigns, media crews, and the ceremony of the primary election. Since the natural experiment fails in this case, we drop all states that have a primary in every year in our analysis. Other states, however, experience more variation in regards to (1) whether or not any money will be spent in primary campaigns and (2) how much money will be spent. This variation comes from two main channels.

First, the duration of any primary campaign is unknown ex ante. While some primary campaigns leave only one candidate in each party after only a few months (i.e. in 2004 when Senatory Kerry clinched in March), other election cycles (i.e. 2008) carry on until June, reaching every state. Figure 1 shows the variation, by party, of the number of states reached by campaigns in each election cycle. This shows significant fluctuations in the number of states that have primary elections each year, particularly in Republican primaries. Alternatively, Figure 2 plots the duration of primary campaigns over time, where the duration is defined as the number of days from the first primary until only one candidate remained in the contest.[25] In general, the early contests from 1976-1992 took longer to determine each party's candidate.

Figure 2 additionally plots the average real GDP per capita in the US over time, reassuring us that the duration of primaries is uncorrelated with the state of the economy.[26] To provide a specific example of the changes in primary campaigning between years, we

[25]Since there are potentially 2 primaries in each state and year, there is a duration for each contest. We plot the length of the longer primary in each year.

[26]When regressing real GDP per capita on the duration of primaries, we find no statistically significant relationship between the two variables.

show the changes in primary status by states between the 2004 and 2008 elections. Figure 4 shows which states switched primary status between 2004 and 2008. Comparing just these 2 election cycles, we see that there are many states that had primaries in 2008 but not 2004, due to both the fact that there was no Republican primary in 2004 and the length and competitiveness of the 2008 Democratic primary.

Second, the ordering of primaries across states has changed drastically from 1976 through the present day. Although national parties have some influence on the timing of primaries, the decisions are ultimately made by each state. There has been significant movement in the primary calendar over time. The change in ordering also allows for some states to experience campaign spending in some election cycles and not others. In addition, if a state's primary moves to a day in which many other states hold their contests, this may lead to a reduction in campaign spending in that state. This gives us variation in both the existence of and amount of spending by primary campaigns.

The argument in our paper implies that states should have an incentive to move their primaries earlier in the calendar in order to gain economic benefits. If this were true, then we could no longer argue that primaries are exogenous. However, we do not believe that this is the case, due to the lengthy process involved in changing primary dates. In order for a state to be able to change its Presidential primary date, the state legislature must propose a bill, which in most states is an extremely lengthy process, where less than 5-10% of bills are passed.[27] The lengthy process creates difficulty for states to change their date in a timely fashion, making it unlikely that the primary date will be switched (and reached) when the state's economy is at its worst. In addition, the state and national party officials must approve the change in date for the state's delegates to count in the nomination process.

Furthermore, even though this change of date is under the authorization of state

[27]Most states have dates like the following from Montana's Constitution: 13-1-107. Times for holding primary elections. (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state (The Constitution of the State of Montana, 2011).

elected officials who have an interest in state policy, a state's change in ordering is seemingly uncorrelated with a change in economic indicators. To demonstrate this, in each year we split the states into two groups: those who changed their primary date from the previous election, and those that did not.[28] Figure 3 plots the average GDP growth in both groups over time.[29] The graph also shows the number of states that changed their primary date in each year. This figure shows no systematic difference between the GDP growth in both groups over time.[30] We also see that there are a large number of states that change their primary dates each year, showing that this provides an important source of variation.

An additional literature on vote-buying suggests that politicians can adjust funds on a state-by-state basis (See e.g., Levitt and Snyder (1995); Fleck (2008)). If government funds are correlated with campaign spending, this could additionally confound our effect. However, the ability of politicians to adjust the allocation of government funds quickly on a state-by-state basis is limited. For example, Senator Kerry would have trouble providing a voting record that appeased each state he visited in his Presidential primary campaign surrounding the time of that state's election. This makes the approach taken in this paper more compelling than studies that focus on differences in policy spending over time as exogenous variation.

3.2 Primary Spending

In this paper, we study whether the existence of a primary increases local income. For there to be an effect, there has to be more campaign spending in states with primaries. To verify that this is true, we use data on campaign expenditures from the 2004 and 2008 primary elections. Table 2 shows the distribution of spending for primaries by quarter,

[28] We label a state as having changed their primary date if the date of the primary made a substantial change (i.e. more than 2 weeks) such that it took an initiative within the state's Board of Elections and changed the ordering of the primary schedule.

[29] The average GDP growth takes percentage growth of GDP between two years of each state (in each group) and takes the average of those observations by year.

[30] A t-test shows that the difference in the means is not statistically different than 0.

where states with primaries in the current or next period have higher spending than areas without primaries. We see that spending increases not only increased during the quarter of the primary, but also in the quarter before the primary. Early spending could occur because candidates campaign in some states for an extended period of time, especially when the race is on the cusp of two quarters.

Next, we look at the changes in spending in states as they change primary status over the years, to ensure that having a primary leads to increased spending. In general, we see that states that did not have a primary in 2004 and did have one in 2008 tended to have more spending in 2008. Figure 4 shows the states that held a primary in 2008 and not in 2004, and Figure 5 shows the percentage change in expenditures between the two election cycles. States such as Pennsylvania and Utah, which were reached in the lengthy Democratic campaign in 2008, had over 20 percent more primary spending in this election cycle than they did in 2004, when the process culminated before the state was reached. There is also an increase in spending from 2004 to 2008 in early states like Iowa, South Carolina, and New Hampshire, where the increased number of candidates and the fact that both parties held primaries increased the spending in those states. Conversely, the state election boards in Michigan and Florida moved their Presidential primary contests up, and set the elections in January 2008. The DNC challenged these moves, and in turn, Democratic candidates opted to not campaign in these states. Thus, spending in these states actually decreased from their later primary day in 2004.[31] Overall, these figures show variation in spending in states, depending on whether or not there is a primary in that year. This supports our argument that there will be more spending in states with primaries.

Using the spending data and the primary dummies in 2004 and 2008, we estimate the

[31]There are cases where state boundaries provide a neighboring state with additional spending when there is not a primary in that state. For example, New Jersey benefited from New York's early primary on a day independent of all other primary contests in 2004. This is because candidates spent money renting cars, purchasing hotel rooms, and eating some meals in New Jersey, though they were officially campaigning in NY. When compared to 2008, even though NJ held its own primary, it did this on a day when many other states also held primaries, as did NY. This made spending higher in the previous election cycle.

relationship between the existence of a primary and spending growth, while controlling for the same factors we take into account in our later analysis. We first construct a set of control variables we expect to be correlated with the intensity of spending. The structure of the primary calendar is such that there is often one day with many of the elections, typically called "Super Tuesday." We control for whether or not an election in a state is on this day each year.[32] Another possibility is that in states with late primaries, early spending for the general election when one party's nominee has been determined and the other has not could falsely lead to higher levels of income growth, especially in battleground states. To account for this, we control for whether or not a state is a battleground state in periods after one party's candidate has been chosen.[33]

The first column in Table 3 shows that the existence of a primary more than doubles spending growth in that quarter, when compared to states without primaries. Primary spending growth is lower in "Super Tuesday" states when compared to states with primaries on other days, as "Super Tuesday" elections make it hard for time-constrained politicians to campaign everywhere. In addition, battleground states tend to have significantly lower spending growth than non-battleground states. This result is not surprising since our dependent variable is only primary spending growth, and does not include money earmarked for the general election.[34] In addition, competitive states are always labeled as "battleground" in the third quarter of the election year, or the height of the general election. This is the time in which primary growth is most likely to be negative, or lower than the previous period. If we add state level fixed effects to this model, as in Column (2), we see that primary campaigning still more than doubles spending growth when com-

[32]Our "Super Tuesday" control is defined as the day each year that has the most primary elections in a given state. The list of states with primaries on "Super Tuesday" in each year is shown in Appendix B. "Super Tuesday" is always reached, so it is an interaction term between the primary dummy and having an election on the given date.

[33]We could include a control for whether or not a state held a competitive primary. For example, in President Bush's home state of Texas, he may have already been a favorite and not needed to campaign. However, enough states have a proportional share of electoral votes, so candidates still receive votes towards the final count if they do not win a majority in a given state.

[34]The probability of being in a battleground state in a given quarter conditional on having a primary in the same state, quarter is less than 36% in this sample.

pared to a period when the state did not have a primary. Hosting a primary on "Super Tuesday" lowers this substantially, as does being in a battleground state.

4 Empirical Analysis

In this section, we estimate the effect of primary spending on local economic development. We first test how the existence of a primary before the nomination has been determined affects changes in income growth from 1976-2008. We then verify these results using data on campaign expenditures across states in the 2004 and 2008 elections.

4.1 Existence of a Primary

We assume that a state's income in a given quarter depends on whether or not there is a primary in a given time period, a set of control variables, and state and year fixed effects. Let P_{it} be a dummy variable indicating whether or not there is a primary in state i at time t. Denote the log average per capita income in sector s in state i at time (year) t as y_{ist}, state fixed effects as μ_{is}, time fixed effects as γ_{st}, control variables as X_{it}, and the error term as ϵ_{ist}. Then we can write

$$y_{ist} = \beta_{0s} + \beta_{1s}P_{it} + \beta_{2s}X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist} \tag{1}$$

Taking first differences of Equation (1), the state and year fixed effects drop out:[35]

$$\Delta y_{ist} = \beta_{1s}\Delta P_{it} + \beta_{2s}\Delta X_{it} + \hat{\epsilon}_{ist} \ , \tag{2}$$

where $\hat{\epsilon}_{ist} = \Delta\epsilon_{ist}$.

We estimate equation (2) and look at how changes in the primary dummy variable

[35]The year fixed effects do not drop out in every period. Since we are using quarterly data, as we go from the 4th quarter of one year to the first quarter of the next, the year fixed effects technically will not difference out. However, since they would only be identified off of one quarter per year, we chose to drop these year fixed effects.

affect income growth in different sectors. Identification in this specification comes from comparing states with primaries to those that do not have primaries. We define a state as having primary spending if there is a primary in the current quarter or in the next quarter, acknowledging that candidates sometimes spend an extended amount of time campaigning in a state.

We drop states that have primaries in every election year, as it is hard to argue that the existence of a primary is exogenous in states that anticipate primary spending each cycle. Perfect foresight of primary spending may allow individuals to internalize more upfront costs, where business that normally would not be open in a given season may change their behavior since they know primary campaigns will spend there with certainty each cycle. These states invalidate the natural experiment present, where it is necessary to maintain uncertainty in the timing and duration of primary elections. Dropping these traditionally early states leaves us with a sample of states for which there is variation in whether or not there is a primary, so each election cycle contains uncertainty as to whether or not they will receive primary spending.

We present the unconditional effects of hosting a primary. Since the existence of primary campaigns are exogenous to the state of the economy, the unconditional effects of campaign spending will be unbiased. In this specification, we still include quarter fixed effects to control for seasonal fluctuations in income. We control for variables that may affect the volume of spending, such as having a primary on "Super Tuesday" and whether or not the state was a battleground in the given period.

In Table 4, we show results for total earned income, as well as in sectors where we would expect the largest effect from primaries: accommodations, services, and retail trade. We expect accommodations to be particularly affected; however, this measure is not available for the early data, so we instead use the services sector for the first time period. The data from the later time period shows that accommodations is the service sector most affected by primary spending. We expect that primary campaign spending will directly affect the accommodations sector, as increased revenues from hotel room, catering, food services,

and additional expenses the campaigns incur flow straight into this sector. The definition of retail trade changed slightly between the two periods provided. However, since we are looking at growth, we pool the observations from the two time periods. To account for this difference, we include a dummy variable in the estimation to account for which time period the data is from.

The first three columns of Table 4 show that primary spending increases total income growth by approximately 0.53 percentage points, where the average state income growth reported in Table 8 in Appendix A is 1.3%. Primary spending increases income in the services and accommodations sectors by 0.76 and 0.47 percentage points, respectively (where the mean growth rates are 2.1% and 1.1%, respectively). For retail trade, we see a positive effect of primary spending on income levels, though this is not statistically different from zero.

Table 4 also shows that having a primary on Super Tuesday decreases the overall effect in Columns (1)-(5), so much so that they negate any positive effect of hosting a primary. This is expected because candidates devote less resources to each state if there are multiple primaries on the same day, as shown in Table 3. We do not find a statistically significant effect of being a battleground state. The timing is set such that states count as a battleground starting, in the calendar year of the election, when one candidate in either party has clinched the nomination. When an incumbent is not challenged in a primary, a state that is competitive in the general election is classified as a battleground state starting in the first quarter of the election year. However, the most intense campaigning occurs during the 3rd quarter of each election year. When we only allow states to be classified as battleground states in the third quarter, the battleground dummy variable is positive and statistically significant. This implies that income growth increases in battleground states later in the election cycle, possibly due to spending for the general election.

In an alternate specification, we also include state fixed effects when estimating Equation (2). In the initial setting, the state fixed effects dropped out of the regressions because we study income growth. In this next specification, we allow for state fixed ef-

fects in growth rates. This changes the identification of the dummy variable for primary elections. Without state fixed effects, the coefficient on the primary election variable was identified by comparing the income growth in states with and without primaries. By including state fixed effects, the coefficient is identified by comparing income growth in a given state when the primary variable changes values. The results with state fixed effects are in Table 5. This does not substantively change the results.

This increased income could come through increased labor force participation, or an increase in hours worked (as well as overtime pay) for current workers. Using data from the Bureau of Labor Statistics on the number of workers in each sector on a monthly basis, we find no effect of primary elections statistically different from zero. This implies that our results are due to increased hours worked for current workers in the sector.[36]

4.2 Expenditures

Next, we verify the results in the previous section with data on the amount spent by campaigns in each state during the 2004 and 2008 primary elections. This setup allows for an extra source of variation resulting from differences in expenditures across states and time.

Denote logged spending in a state as e_{it}, and y_{ist} is defined identical to Equation (1).[37] Then

$$y_{ist} = \beta_{0s} + \beta_{1s} e_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist}$$

Taking differences,[38]

$$\Delta y_{ist} = \beta_{1s} \Delta e_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \tag{3}$$

[36] In these results, we use the same specification as above. These results are available upon request.

[37] If we instead use per capita spending, our results are almost synonymous. This is because there is little change in state population between quarters. These results are in Table 13 in Appendix C.

[38] The year fixed effects will not difference out as we go from the last quarter of each year to the first quarter of the following year. However, since they would only be identified off of one quarter per year, we choose to drop the year fixed effects.

The parameter β_{1s} tells us how changes in spending growth affect income growth in each sector. This provides a more precise estimate of the effect of spending growth on income growth since we also have variation in spending in each state and quarter. Our identification largely comes from states that were reached in the 2008 election but not in 2004. However, we argue that the amount spent is orthogonal to a state's economic growth, as even if a state is consistently reached (and is reached in both 2004 and 2008), there is still uncertainty about the degree of spending in each year. For example, some years provide competition between candidates in both parties, while others have competition from only one. In addition, there is large variation in the number of entrants within each party between years. At times, favored candidates do not win the early states, turning the tide of the election, thereby increasing the competitiveness. Changes in primary dates affected the spending in some states as well. For example, New York moved its primary in 2008 to an election day with other states, causing a decrease in its expenditures between the two cycles. Thus, our variation comes from states that had both increased and decreased expenditures over the two election years. Finally, we exploit variation in spending over the course of the primary election cycle, where earlier contests with more competitors tend to exhibit more spending. As in the previous section, we drop the states with early primaries (Iowa, New Hampshire, and South Carolina), which have primary elections in every year.[39]

We use quarterly data on campaign expenditures in a given state to estimate Equation (3), and are interested in the coefficient on the growth rate in expenditures, β_{1s}. In this analysis, we use data from 2003-2004 and 2007-2008. We continue to control for battleground status of the state, though we no longer control for different attributes of the primary, as the spending amounts will capture the existence of a "Super Tuesday."[40]

Table 6 reports the coefficient and standard errors for β_{1s} in Equation (3), which is

[39]If we restrict the sample further to include only the states that change primary status between the two election cycles (or only estimating the extensive margin), our results remain substantively similar, though our standard errors become slightly larger.

[40]If we additionally control for lagged spending growth or the "Super Tuesday" dummy variable, β_{1s} is not statistically different from the specification shown in Table 6.

the coefficient on the growth rate in expenditures. In order to generate results that are comparable to those found in Tables 4-5, we estimate what the increased economic growth from having a primary. To do this, we use the results from Table 3, which show that having a primary more than doubles campaign spending in a state (or over 100%). We find that campaign spending modestly increases quarterly growth, where doubling campaign expenditures between quarters results in a 0.054 percentage point increase in a state's total income from the previous quarter, adjusting for seasonal increases in income. We see the largest effects in the accommodations and retail trade sectors, where doubling expenditures results in a 0.13 and 0.061 percentage point increase in income, respectively. We find larger effects in the accommodations sector than we do for total income. Comparing these to the mean income growth rates for the time period in Table 8 in Appendix A, we find that these results are about a 35% increase in total income, making these results consistent with the previous analysis.

The results for the retail trade sector are slightly different from the previous results using a primary dummy variable, as they are now statistically different from zero. While this sector has smaller growth rates on average when compared to the other two sectors, the increased growth in the later period may in part be influenced by the many technological and startup needs of the campaign offices' expenses that happened from 2004-2008 moreso than in previous periods. In addition, given a larger effort of grass roots campaigning from 2004-2008, staffers likely spent more time in less populated areas, allowing them to promote local economies more than in the longer time period. The battleground dummies again appear to slightly decrease income growth.

Similar to the previous section, we also include state fixed effects, where the comparison now comes from changes in spending growth within the same state. This is shown in Table 14, and does not substantially change the results. In addition, we replicate the results using the primary dummy variables from the previous subsection on this subsample. These results, in Table 15 in Appendix C, are consistent with the results in Tables 4-5.

Theoretically, these expenditure results can be used to calculate a multiplier, which

would give the effect of additional spending on income levels. We expect that a multiplier effect will exist if service sector employees are receiving higher wages and exuding higher levels of spending. For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdresser more. This money will continue to circulate in the state's economy. Calculating this multiplier would provide a comparison to the traditional literature on fiscal stimulus multipliers, given that this multiplier would reflect previously unstudied sectors. However, we do not have a complete measure of the amount spent during primary campaigns. Our measure of spending is a lower bound on the actual amount of additional spending brought forth by a Presidential primary campaign, and does not include spending by the media, individual spending by staffers, or the additional expenditures put forth by a state's residents in order to engage in campaign events. For simplicity, we will refer to these additional expenses as "media spending" for the remainder of the discussion. This mis-measurement of total spending makes it hard to calculate accurate multipliers.

We assume that media spending and our expenditure values are highly correlated,[41] which implies that our estimate of β_{1s} will not be biased. However, this makes it difficult to estimate the multiplier. The multiplier tells us how much total income would grow with an additional $1 of spending. In our setup, an additional $1 of primary spending does not just account for a $1 increase in spending, as it would also be associated with an increase in media spending. Because we do not have an accurate measure of media spending, we are uncertain of the degree to which media spending would increase, and therefore cannot calculate an accurate multiplier. This argument implies that multipliers would be (and are) unreasonably large (just over 10). When we instead run simulations varying the amount of media spending, between 50% and 100% of our expenditure values, our estimates of β_{1s} remain statistically equivalent to the previous estimates. This simulation also produces lower and reasonable multiplier estimates within ranges of media spending

[41]We think this is a valid assumption since a race with greater primary spending may have more electoral votes and garner more media attention. Also, like candidates, networks are constrained if many contests occur on the same day and have to spend less covering each given state.

between 50% and 100% of total campaign spending (between 2 and 3.5). The biggest difference between our work and the traditional public finance literature looking at local multipliers is the lack of public investment spending in this paper.

5 Where is the Money Coming from?

A discussion of the economic benefit of primaries would be incomplete without considering the sources of these funds. In particular, concern may arise that campaign contributions from individuals within a state are approximately equal to campaign spending in that same state. If, for example, Iowa residents are contributing at a higher rate than the rest of the country (especially at the time of the primary), funds may simply be moving amongst Iowa citizens.

Campaign spending differs from traditional government spending because campaigns are financed through three sources: individual level contributions, federal matching funds, and Political Action Committee (PAC) contributions. Individual level contributions in presidential races are generally considered consumption goods, where an individual donates to a campaign if it increases his/her utility (Ansolabehere et al. 2003). Thus, individuals who enjoy following politics, as well as those with more resources, tend to contribute more money to candidates and do this more frequently (Brady et al. 1995). While we do not precisely know the counterfactual, we postulate that this money would not be spent in the absence of primaries, as those who contribute in primaries tend to be more high-income individuals whose budgets allow for some flexibility in spending. However, we cannot fully assess the value of individuals' participation in the process, where they give their time, or small dollar donations to the campaign. These resources would likely be reallocated in the absence of the race. An additional source of "individual" funds, which are less frequently utilized in primary races, is a candidate's personal expenditures, which likely would not be spent to the same extent in the absence of a race and are a direct transfer to individuals in the service sector of states with a high degree

of campaigning.

Second, partial public funding is available to Presidential primary candidates in the form of matching payments of up to $250 per individual contribution.[42] To obtain these funds, candidates must become eligible and limit themselves to spending caps.[43] Again, these funds differ from the traditional federal spending in that they are not targeted at aiming an impoverished area, but instead are entrusted to viable Presidential candidates with intentions of getting out their messages to help voters make an informed decision. There has been little variation in the total federal funds allocated for Presidential primary contests over our full sample period (1976-2008), and this money can be seen as a transfer from all taxpayers to those receiving campaigning.

Third, candidates receive money from PACs. While PAC contributions have increased significantly since 1976 (FEC 2010),[44] candidates still receive most of their money during the primary from individuals and matching funds. This is because partisan PACs generally wait until a candidate has clinched the nomination to stand behind him. In 2008, candidates raised a total of $534 million from individuals, $63 million from PACs, and $21 million from federal matching funds. Similarly, in 2004, candidates raised $130 million from individual contributors, $10 million from PACs, and $27 from federal funds.[45]

Recognizing that the majority of campaign spending comes from individuals, we analyze the geographic sources of the donations in Figures 6 - 7 for 2004 and 2008, respectively. We construct a measure, entitled Campaign Ratio, by dividing total campaign-related expenses (i.e., money spent specifically on the travel-related activities for campaigning, not on ads, media, consultants, etc.) in a given state by that state's total individual-level campaign contributions. Thus, the greater the measure, the more relative money that is coming from out of state than being spent in state.

[42]Variation in total federal funding will come via the number of contributions as well as the number of candidates raising the threshold amount to begin collecting federal dollars within each primary cycle.

[43]See `www.fec.gov` for more on these rules.

[44]Also, see the CRP `http://www.opensecrets.org/pres08/totals.php?cycle=2008` for more trends on giving and expenditures.

[45]Calculations based on Federal Election Commission data on Presidential candidates' primary fundraising.

In Figure 6, we see that in early states like Iowa, New Hampshire, South Carolina, Missouri, Arkansas, and Virginia, there is the greatest ratio of spending to contributions. States like Texas, Washington, and California had some of the lowest ratios in 2004, meaning that residents were contributing more money than was being spent in the state on campaigns. Similarly, Figure 7 shows that Iowa, New Hampshire, Wisconsin, Missouri and Iowa have the highest amount of money spent on primary campaign expenditures, compared to he total contributions by state residents. However, South Carolina and Kansas still saw more money spent in their states than what their residents contributed. In general, what we see is a transfer of funds from individuals in some states with many contributors to states early in the primary process, or on days with their own contest. These figures imply that the money being spent during primaries is mostly coming from outside the state.[46]

6 Conclusion

This paper takes a traditional public finance and macroeconomics question, asking how government spending affects local economies, and looks at primary campaign spending as an exogenous shock to previously unstudied sectors of a state's economy. We find that this money modestly increases income growth in a state. Specifically, the service sectors see the largest effects, where the accommodations sector seems to be the main source of this finding.

While other papers have investigated the ability of early primaries to influence policy, as candidate's attempt to appease early state's preferences in order to clench the nomination early (Malhotra and Snowberg 2011), our paper is the first to show the economic value of hosting a primary race. We also find that when there are few candidates in the race, it is more valuable to have a primary race that occurs independently of other states, making a Super Tuesday primary less valuable in terms of spending and economic

[46]Again, we do not look at small donations or within-state volunteering as inputs.

growth. This paper provides additional incentives for states to move their primaries up in the ordering, though to do so strategically.

Additionally, this paper provides a new insight on fiscal stimulus. While previous work has established a link between government spending and increases in employment, earnings, and income, this paper asserts that additional spending in states' service sectors provide short-run increases to personal earnings on the intensive margin. Thus, when individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur). A federal re-ordering of the primary calendar may best be structured to help states with struggling service sectors.

As policymakers continue to reform campaign finance legislation, they should consider the potential positive effects, though short-run and sector-specific, that can ensue from campaign spending in states.

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Figures

Figure 1: Number of primaries over time

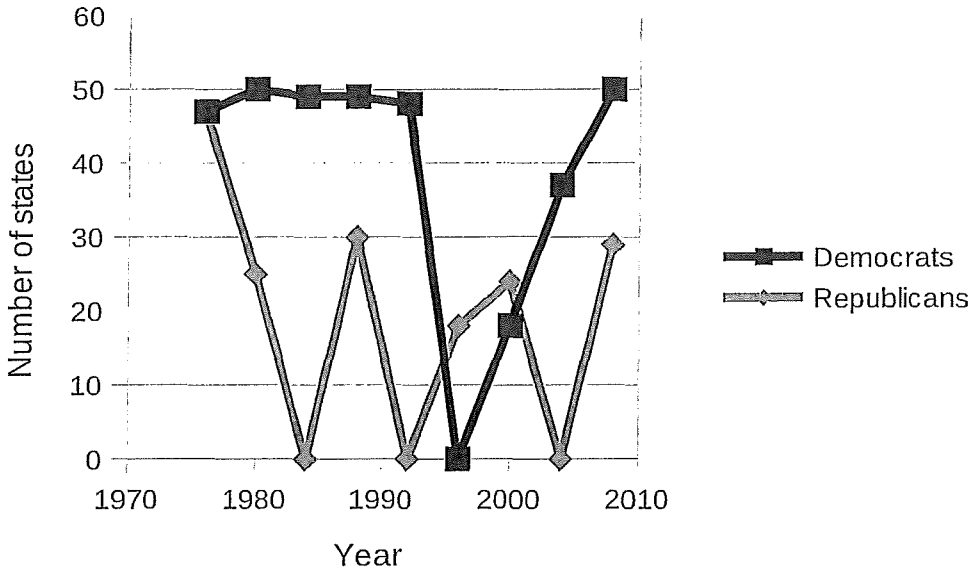


Figure 2: Primary Length and GDP

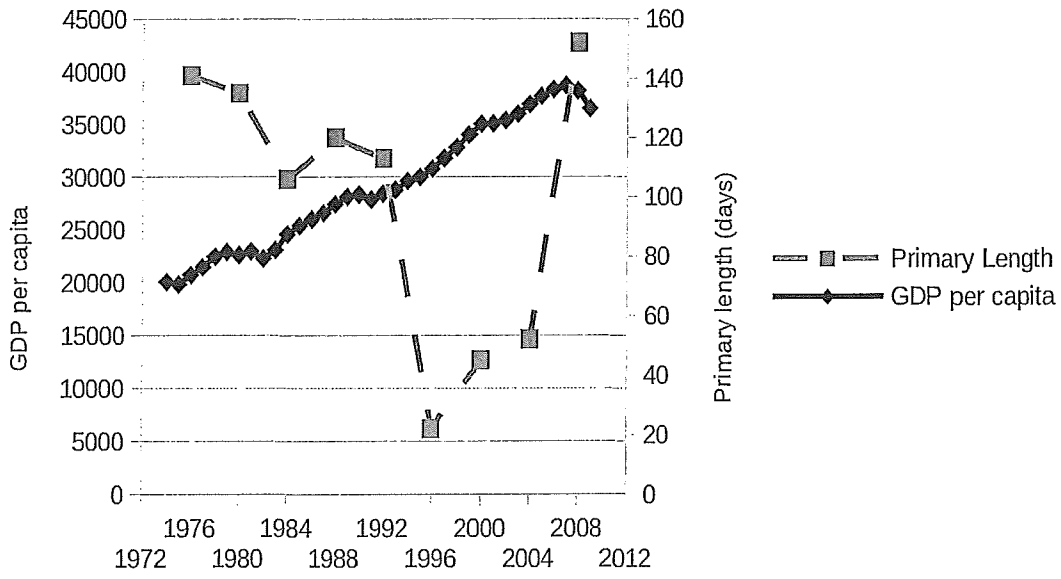


Figure 3: States that switch primary dates and GDP

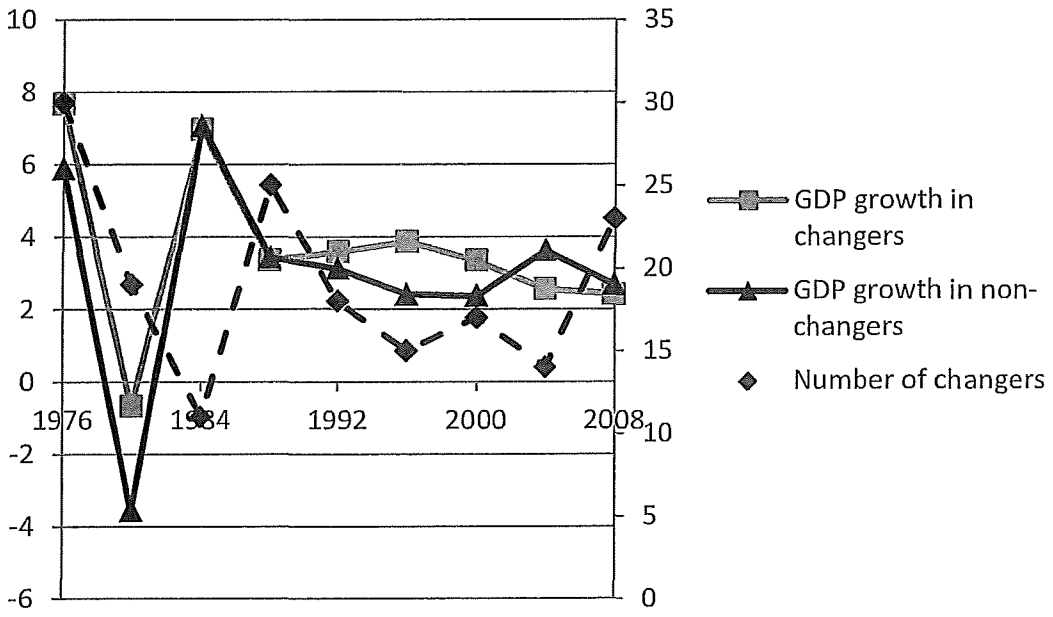


Figure 4: Primary Status Between 2004 and 2008

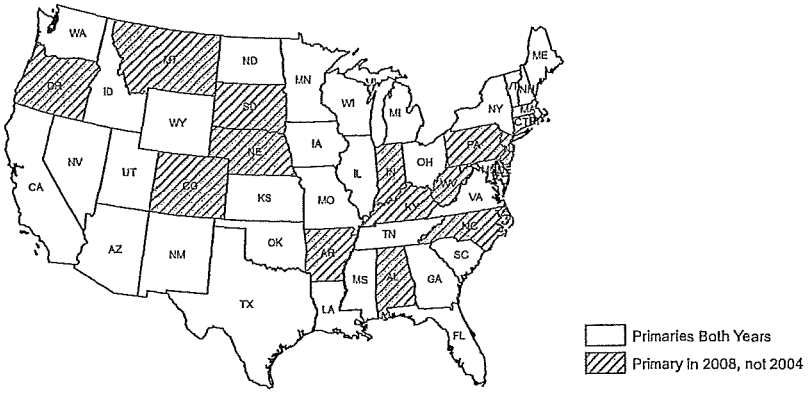


Figure 5: Changes in Expenditures from 2004-2008

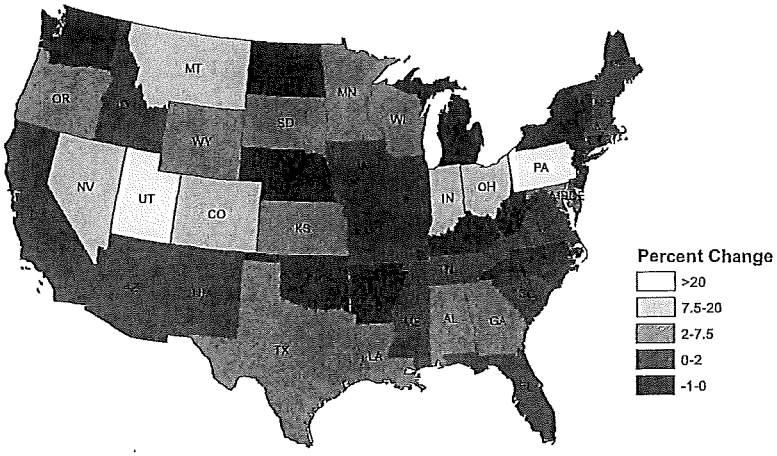


Figure 6: Campaign Expenditures and Contributions in 2004

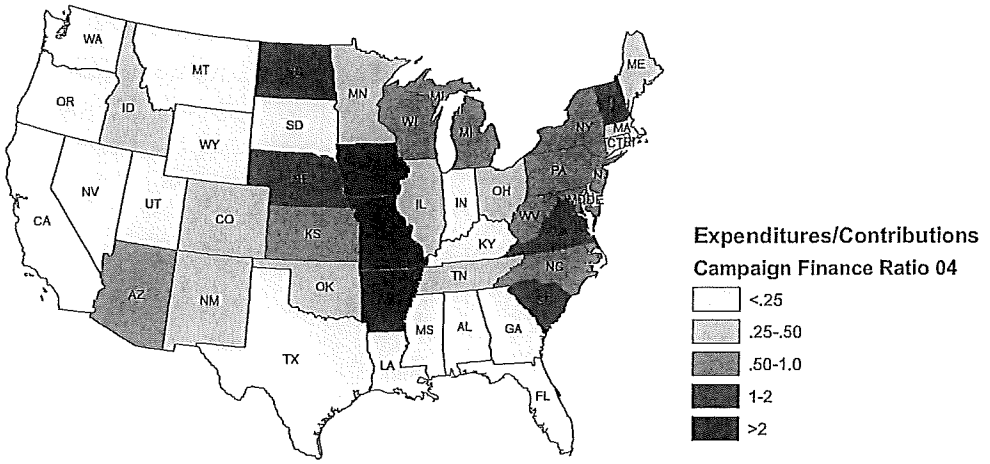
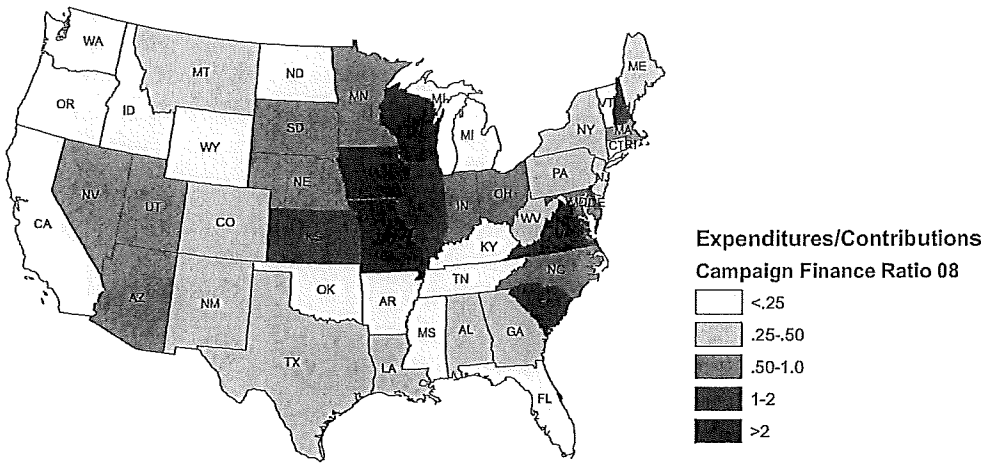


Figure 7: Campaign Expenditures and Contributions in 2008



Tables

Table 1: Dates when only one candidate remains by party

	Republicans		Democrats	
	Date Clinched	Nominee	Date Clinched	Nominee
1976	8 June	Gerald Ford	8 June	Jimmy Carter
1980	1 May	Ronald Reagan	4 June	Jimmy Carter
1984	No Contest	Ronald Reagan	5 June	Walter Mondale
1988	15 March	George H.W. Bush	7 June	Michael Dukakis
1992	No Contest	George H.W. Bush	2 June	Bill Clinton
1996	5 March	Bob Dole	No Contest	Bill Clinton
2000	9 March	George W. Bush	9 March	Al Gore
2004	No Contest	George W. Bush	11 March	John Kerry
2008	4 March	John McCain	3 June	Barack Obama

Notes: President Carter had a very low approval rating and was forced by the DNC to run in the primary in 1980. No Contest means that there were no contenders against the incumbent president.

Table 2: Spending by Primary Existence

Primary Status	Total Spending	Campaign Spending
Primary in current quarter		
Average	1,507,529	703,237
Median	423,584	222,641
25th Percentile	86,755	55,653
75th Percentile	1,487,526	721,901
Observations	89	89
Primary in next quarter		
Average	1,733,553	638,328
Median	276,206	138,157
25th Percentile	33,115	27,522
75th Percentile	1,336,009	679,948
Observations	89	89
No primary		
Average	861,762	372,993
Median	99,962	35,286
25th Percentile	16,191	4,207
75th Percentile	533,750	255,636
Observations	624	624

Total Spending includes all money spent by campaigns (in $s).
Campaign Spending removes ad and media expenditures from Total Spending.
Compares quarter/states with and without primary elections
in 2003-2004, 2007-2008.

Table 3: Primary Existence Predicts Primary Campaign Expenditures

Dependent Variable=Spending Growth		
	(1)	(2)
Primary	1.128***	1.218***
	(0.281)	(0.335)
Primary on Super Tuesday	-0.481	-0.693*
	(0.341)	(0.392)
Battleground State	-1.500***	-1.688***
	(0.222)	(0.229)
Observations	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. Column (2) includes state fixed effects.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 4: Primary Elections Increase Income Growth

Dependent Variable=Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00525***	0.00761***	0.00473**	0.000798
	(0.000678)	(0.000958)	(0.00227)	(0.000970)
Primary on Super Tuesday	-0.00399**	-0.0140***	-0.0146***	-0.00746**
	(0.00188)	(0.00316)	(0.00486)	(0.00294)
Battleground state	0.000202	-0.000194	-0.00214*	0.000474
	(0.000576)	(0.000842)	(0.00125)	(0.000736)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 5: Primary Elections Increase Income Growth (state fixed effects)

Dependent Variable = Per Capita Income Growth				
	(1)	(2)	(3)	(4)
	Income	Services	Accommodations	Retail Trade
	1974-2009	1974-2001	1990-2009	1974-2009
Primary	0.00528***	0.00764***	0.00497**	0.000833
	(0.000492)	(0.000635)	(0.00215)	(0.000679)
Primary on Super Tuesday	-0.00401*	-0.0137***	-0.0153***	-0.00771**
	(0.00210)	(0.00295)	(0.00400)	(0.00303)
Battleground state	0.000378	-0.000154	-0.00188*	0.000531
	(0.000509)	(0.000849)	(0.00107)	(0.000642)
Observations	5586	4370	2997	5586

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 6: Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000541***	0.00134***	0.000606***
	(0.000155)	(0.000259)	(0.000215)
Battleground	0.000768	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses.
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 7: Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000520***	0.00128***	0.000586***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000222	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies and state fixed effects.

State-quarter observations. Drops IA, NH, SC.

Appendix A: Data Appendix

Table 8: Summary Statistics

	Mean	Standard deviation	Minimum	Maximum
Full Sample				
Income growth	0.0128	0.0147	-0.1020	0.1833
Services income growth	0.0209	0.0171	-0.2070	0.3299
Accommodations income growth	0.0107	0.0237	-0.4903	0.3630
Retail trade income growth	0.0110	0.0173	-0.2736	0.2800
Primary dummy	0.1011	0.3015	0	1
Super Tuesday dummy	0.0146	0.1200	0	1
Battleground dummy	0.0984	0.2978	0	1
Only for election years				
Primary dummy	0.4156	0.4930	0	1
Super Tuesday dummy	0.0600	0.2376	0	1
Battleground dummy	0.4044	0.4909	0	1
2004-2008 Sample Only				
Income growth	0.0143	0.0284	-0.0443	0.2404
Accommodations income growth	0.0110	0.0294	-0.0752	0.2158
Retail trade income growth	0.0031	0.0222	-0.0857	0.1458
Campaign spending growth	-0.4350	3.0736	-12.0499	9.3338
Campaign spending growth*	0.4401	1.7784	-8.8538	8.8708
Campaign spending growth**	-0.7289	3.3502	-12.0499	9.3338
Battleground Dummy	0.2475	0.4318	0	1
Super Tuesday dummy	0.0437	0.2047	0	1
Only for election years				
Battleground dummy	0.4950	0.5006	0	1
Super Tuesday dummy	0.0875	0.2829	0	1

* Includes only periods with primaries.

** Includes only periods without primaries.

Table 9: Variables Collected

Variable	Measured	Years	Source
Primary Dates	Date each Presidential primary was held, by state and party	1976-2008	Green Papers (for primaries) Frontloading HQ (for caucuses)
Clinch Dates	Date Presidential candidate was last remaining in contest for party nomination	1976-2008	Various sources
Battleground States	Competitive States in election based on polls (< 10 perecentage points between winner and loser)	1996-2008	Intrade Prediction markets, David Leip's Polling Report
	Competitive states in election based on ex-post results (< 10 perecentage points between winner and loser)	1976-1992	David Leip's Election Results
Income	Quarterly state earnings	1974-2008	Bureau of Economic Analysis (BEA)
Services Income	Quarterly state earnings in the "service" sector	1974-2001	BEA
Accommodations Income	Quarterly state earnings in the accommodations sector	1990-2008	BEA
Retail Income	Quarterly state earnings in the retail sector	1990-2008	BEA
Population	Annual state population interpolated by quarter	1974-2008	Census
GDP	Annual state GDP	1974-2008	BEA
Unemployment	Annual state unemployment rate	1974-2008	BLS
Campaign expenditures	All expenses by Presidential primary candidates spent in pursuit of the primary race Includes: administrative and campain expenses, i.e. hotel rooms, meals, local polling, Get-out-the-Vote, campaign events, money spent by staffers for catering meetings, rent, utilities, cable, internet, administrative supplies, staffer travel. Does not include advertisements	2004-2008	Center for Responsive Politics

Table 10: Variables Measured

Variable	Measured
Primary Dummy	Dummy Variable = 1 if there was a primary in state i in quarter t or $t+1$ based on state primary dates and clinch dates
Battleground States	Dummy Variable=1 if state i was competitive in election year, and primary nomination clinched for at least one party at time t
Primary on Super Tuesday	Dummy Variable=1 if state i had primary at time t and that day had the highest number of primary elections during that cycle
Per Capita Income Growth	$log\left(\frac{\text{Income}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Income}_{t-1}}{\text{Population}_{t-1}}\right)$
Per Capita Services Income Growth	Same as income, but only for 1974-2001
Per Capita Accommodations Income Growth	Same as income, but only for 1990-2008
Per Capita Retail Income Growth	Same as income, but only for 1990-2008
Population	Annual population data, by state (interpolated by quarter)
Spending Growth	$log(\text{Spending}_t) - \log(\text{Spending}_{t-1})$
Per Capita Spending Growth	$log\left(\frac{\text{Spending}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Spending}_{t-1}}{\text{Population}_{t-1}}\right)$

Appendix B: Election Information

Table 11: Battleground states by year

Alabama	1980, 1992, 1996
Alaska	1992
Arizona	1992, 1996, 2000, 2008
Arkansas	1980, 2000, 2004
California	1976, 1988
Colorado	1968, 1988, 1992, 1996, 2000, 2004, 2008
Connecticut	1980, 1992, 1996, 2008
Delaware	1976, 1980, 1992, 2004
Florida	1976, 1992, 1996, 2000, 2004, 2008
Georgia	1992, 1996, 2008
Hawaii	1976, 1980, 1988, 2004
Illinois	1976, 1980, 1988
Indiana	1976, 1992, 1996, 2008
Iowa	1984, 1992, 2000, 2004, 2008
Kansas	1976, 1992
Kentucky	1976, 1980, 1992, 1996
Louisiana	1976, 1980, 1992, 2000
Maine	1980, 1992, 2000, 2004
Maryland	1976, 1980, 1984, 1988
Massachusetts	1980, 1984, 1988
Michigan	1976, 1980, 1988, 1992, 2000, 2004
Minnesota	1980, 1984, 1988, 2000, 2004
Mississippi	1976, 1980, 1992, 1996
Missouri	1968, 1976, 1980, 1988, 1996, 2000, 2004, 2008
Montana	1980, 1988, 1992, 1996, 2008
Nevada	1976, 1992, 1996, 2000, 2004
New Hampshire	1992, 1996, 2000, 2004, 2008
New Jersey	1976, 1992, 2004
New Mexico	1976, 1988, 1992, 1996, 2000, 2004
New York	1976, 1980, 1984, 1988
North Carolina	1980, 1992, 1996, 2008
North Dakota	1976, 1996, 2008
Ohio	1968, 1976, 1992, 1996, 2000, 2004, 2008
Oklahoma	1976, 1992, 1996
Oregon	1968, 1976, 1980, 1988, 1992, 1996, 2000, 2004
Pennsylvania	1968, 1976, 1980, 1984, 1988, 1992, 2000
Rhode Island	1984
South Carolina	1980, 1992, 1996, 2008
South Dakota	1976, 1988, 1992, 1996, 2008
Tennessee	1980, 1992, 1996, 2000
Texas	1976, 1992, 1996
Vermont	1980, 1988, 2000
Virginia	1976, 1992, 1996, 2000, 2004, 2008
Washington	1976, 1988, 2000, 2004
West Virginia	1980, 1988, 2000
Wisconsin	1968, 1972, 1976, 1980, 1984, 1988, 1992, 2000
Wyoming	1992

Table 12: Super Tuesday states by year

Alabama	1980, 1984, 1988, 2008
Alaska	1980, 2008
Arizona	2008
Arkansas	1976, 1988, 2008
California	2000, 2004, 2008
Colorado	1996
Connecticut	1996, 2000, 2004, 2008
Delaware	1992, 2008
Florida	1980, 1984, 1988, 1992
Georgia	1980, 1984, 1988, 1996, 2000, 2004, 2008
Hawaii	1980, 1984, 1988, 2000
Idaho	1976, 2008
Illinois	2008
Kansas	1988, 2008
Kentucky	1976, 1988
Louisiana	1992
Maine	1996, 2000
Maryland	1988, 1996, 2000, 2004
Massachusetts	1984, 1988, 1996, 2000, 2004, 2008
Minnesota	1996, 2000, 2004, 2008
Missouri	1988, 1992, 1996, 2000, 2008
Montana	2008
Nevada	1976, 1984, 1988
New Jersey	2008
New Mexico	2008
New York	2000, 2004, 2008
North Carolina	1988
North Dakota	2000, 2004, 2008
Ohio	2000, 2004
Oklahoma	1980, 1984, 1988, 1992, 2008
Oregon	1976
Rhode Island	1984, 1988, 1992, 1996, 2000, 2004
Tennessee	1976, 1988, 1992, 2008
Texas	1988, 1992
Utah	2008
Vermont	1996, 2000, 2004
Virginia	1988
Washington	1980, 1984, 1988, 2004
West Virginia	2007

Appendix C: Robustness

Table 13: Per Capita Campaign Expenditures Modestly Increase Income Growth

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000542***	0.00134***	0.000607***
	(0.000155)	(0.000259)	(0.000215)
Battleground State	0.000769	-0.00938***	-0.00333**
	(0.00125)	(0.00187)	(0.00153)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 14: Per Capita Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

Dependent Variable= Per Capita Income Growth			
	(1)	(2)	(3)
	Income	Accom.	Retail
Spending Growth	0.000521***	0.00128***	0.000587***
	(0.000134)	(0.000267)	(0.000207)
Battleground	0.000223	-0.0125***	-0.00430**
	(0.00120)	(0.00221)	(0.00165)
Observations	658	658	658

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects.
State-quarter observations. Drops IA, NH, SC.

Table 15: Results are robust restricting sample to 2004 and 2008 expenditures sample

	(1) Income	(2) Accom.	(3) Retail
Primary	0.00734***	0.0131***	0.00680***
	(0.00162)	(0.00273)	(0.00196)
Primary on Super Tuesday	-0.000656	-0.00935**	-0.00731*
	(0.00301)	(0.00443)	(0.00438)
Battleground State	-0.000263	-0.0114***	-0.00411***
	(0.00123)	(0.00188)	(0.00147)
Observations	658	658	658

Robust standard errors in parentheses

Includes quarter dummies

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

CHAPTER 23: EXPENDITURE MULTIPLIER

Consumption and Savings Function:

- Consumption is primarily a function of Yd (disposable income) or "after-tax" income. Although it is also influenced by the rate of interest, expectations about future Yd, wealth effects etc.
- if plot Consumption as a function of Yd it will have a positive vertical intercept ('autonomous consumption') and a positive slope but less than one (i.e, the slope of the consumption function is the coefficient on Yd in the Consumption equation and represents the Marginal Propensity to Consume (MPC). Therefore, $0<MPC<1$
- if plot the consumption function versus a 45 degree line (with the mathematical property that any point on the 45 degree line has the same vertical coordinate as horizontal coordinate, or $x = y$) then where Consumption intersects the 45 degree line is referred to as "breakeven level of Yd".
- at $Yd < Yd$ breakeven, then $C > Yd$ (the individual is 'dissaving' as savings <0)
- at $Yd > Yd$ breakeven, then $C < Yd$ and the individual is "saving", Savings >0.
- the Savings function is derived from the consumption function (if the consumption function changes then so does the savings function). For example, if

  $C = a + b(Y - T)$ where $a>0$, $0<b<1$ and $Yd= Y-T$

  then the implied savings function is:

  $S = -a + (1-b)(Y - T)$ where $(1-b)$ = MPS (marginal propensity to save)

Note: $MPC + MPS = 1$

- Mathematical example:

  if $C = 1000 + 0.80(Y - T)$ then the implied savings function is:

  $S = -1000 + 0.20(Y - T)$

where MPC = 0.80 and MPS = 0.20. See the graphs pg. 529

Effects of other variables on Consumption function:

- if the interest rate falls or expected future disposable income increases, then the consumption function shifts upwards and the implied savings function shifts downwards (see pg. 531)

Other Components of Aggregate Expenditure (AE):

i) Investment function:

- depends on interest rate, expected future profits. Not related to current GDP or Yd. Therefore, if we plot the investment function in diagram with Investment expenditures on the vertical axis and real GDP on the horizontal axis, the Investment (I) line is horizontal at I_0. That is, we assume that:

  $I = I_0$.

ii) Government expenditures:

- changes in government expenditures (G) or taxes (T) represents a "fiscal policy" decision of the federal government. Therefore, a change in G is a policy choice and does not respond automatically to the level of GDP (Y). So in a diagram, G is also assumed to be autonomous,

  $G = G_0$.

iii) Exports:

- exports represent Canadian goods sold abroad. The level of exports will depend primarily on the Canadian price level (P), foreign price level (Pf), the exchange rate (E) and foreign GDP (Yf). Therefore, once again, X does not respond to the level of Canadian GDP so exports are

autonomous.

$$X = X_0.$$

iv) Imports:

- n depends on relative prices (Canadian and foreign prices), the exchange rate (E), and Canadian GDP (Y). As GDP (Y) increases, we buy more goods and services and some of these will be imported from the rest of the world. Therefore,

  Imports (M) = m Y where $0<m<1$ and m=MPM (marginal propensity to import)

Aggregate Expenditure function (AE):

- n will have a positive intercept (see graph pg. 534)
- n the slope of the AE function is given by:
  - n slope of AE = MPC (1-t) - MPM where $0<t<1$ and t represents the tax **rate**
- n Note if we have lump sum taxes, T = To (a constant) then t=0 and the slope of the AE function is just = MPC - MPM

- n Numerical Example:

  If MPC = 0.80, MPM = 0.10 and t = 0.25 then the slope of the AE function is:
  slope of AE = 0.80 (1 - 0.25) - 0.10
  slope of AE = 0.50

Equilibrium GDP (Y):

- n when AE = Y (planned spending = production) we have an equilibrium
- n graphically this occurs anywhere along the 45 degree line with AE on the vertical axis and real GDP (Y) on the horizontal axis. Specifically, the equilibrium is where the given AE function intersects the 45 degree line. (see pg. 536)

Calculation of Equilibrium GDP (Y):

- n Suppose you are given the following equations:

  C = 1000 + 0.80 (Y- T)
  I = 180
  G = 100
  X = 200
  M = 0.20 Y
  T = 100

- n To find equilibrium GDP, follow these steps:
- n **Step 1**: Calculate the AE equation by adding C, I G, X and M together and substitute the T value into the consumption equation

  AE = C + I + G + X - M
  so AE = 1000 + 0.80(Y -100) + 180 + 100 + 200 - 0.20 Y
  or AE = 1400 + 0.60 Y

-**Step 2:** Impose the equilibrium condition, AE = Y

so 1400 + 0.60 Y = Y

and since the equilibrium condition has been imposed, the value of Y solved for is then equilibrium Y.

- **Step 3:** Solve for equilibrium GDP
  0.40 Y = 1400
  so Y = 3500

The Multiplier:

- the definition of the multiplier is: multiplier = $\frac{\text{change in equilibrium Y}}{\text{change in autonomous spending}}$

- the formula for the expenditure multiplier is: multiplier = $\frac{1}{1 - \text{slope of AE function}}$

Example: If the MPC = 0.80, t = 0, and MPM = 0.05 then
the slope of the AE function is = 0.75 and the multiplier is = 4
Therefore, for everyone $1 increase in spending (whether it be from C, I, G, X) it will generate a $4 increase in equilibrium GDP.

- continuing the example from above where equilibrium Y = 3500, if full employment GDP (Y*) = 4300 then in order to get to full employment GDP the government could increase its spending by 200 (once subject to the multiplier, the overall increase in GDP is going to be $800 bringing the new equilibrium GDP level to $4300 (=Y*)

The Lump sum Tax multiplier:

- if the government has a lump sum tax (so the tax rate, t = 0),then a $1 increase in taxes would reduce Consumption expenditures by the value of the MPC (eg 0.80). This reduction in expenditures is then subject to the multiplier. The end result is that when taxes (T) change, equilibrium GDP changes according to the value of the tax multiplier,
- definition of the tax multiplier: tax multiplier = $\frac{-\text{MPC}}{1 - \text{slope of the AE function}}$

Example:
If the MPC = 0.80, t = 0 and MPM = 0.05 then the tax multiplier is:

$$\text{tax multiplier} = \frac{-0.80}{1 - 0.75}$$

then the tax multiplier is -3.2
The tax multiplier is always a negative number because from the definition of the tax multiplier above, we know that if taxes increase (decrease), then real GDP will decrease (increase) so the tax multiplier is negative.

- you use the tax multiplier to determine the required change in taxes to bring about full employment GDP. Suppose again that Y (eq'l) = 3500 and Y* = 4300 and the tax multiplier is -3.2

then from the definition of the tax multiplier:

$$\text{tax multiplier} = \frac{\text{change in equilibrium GDP}}{\text{change in taxes (lump sum)}}$$

so if the tax multiplier is -3.2 and to get to full employment GDP we want the change in equilibrium GDP to be +$800, then the change in taxes should be = 800/-3.2 or = -$250

The Multiplier and the Price Level:

- n the price level (P) was held constant in deriving the AE function. Therefore, if the price level changes it will shift the AE curve (due to the wealth effect and the substitution effects, see page 543).
- n specifically, if the price level increases, AE shifts down (the increase in price reduces real wealth and encourages international and intertemporal substitution so consumption expenditures decrease and imports increase lowering equilibrium GDP). See graphs on page 544.

Derivation of the AD curve:

- n can derive the AD curve (from chapter 22) by changing the price level and tracing out what happens to equilibrium GDP following the shift in the AE curve. See page 544.
- n we can also trace out the effects of changes in other variables (eg changes in the interest rate or exchange rate etc) on the AD curve itself. See page 545. If the AE curve shifts upwards due to any effect but a change in price, then the AD curve will shift in response. See page 545.

Note: you should read over the Appendix to Chapter 23 (the mathematical note at the end of the chapter).

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December 24, 2013

Honorable Thomas Schweich
Missouri State Auditor
Capitol Building, Room 121
P.O. Box 869
Jefferson City, MO 65101

RE: 2014-079

Dear Auditor Schweich:

I have reviewed Mr. Ketcher's submission of December 16, 2013. I would like to bring a number of items regarding such submission to your attention as you prepare the fiscal note and fiscal note summary for the measure.

(1) Mr. Ketcher is biased

Mr. Ketcher is a proponent of the proposed measure. He has a significant interest in seeing a "no impact" fiscal note summary. Mr. Ketcher's submission should be read in light of his bias and given less weight as a result.

(2) Legislation related to a "cooling off" period

Senate Bills 4 and 78 relate to a "cooling off" period before legislators become lobbyists. These are consistent with my prior submission – nothing in that submission suggested a fiscal impact as a result of such provision.

(3) Legislation related to lobbyist gift bans

Senate Bill 38 relates to a lobbyist gift ban. To the extent the fiscal note suggests there would not be a fiscal impact to the state of Missouri as a result of such ban, it is incorrect. It is

undisputed that a significant amount of money is spent each year on "lobbying gifts" mostly in the form of meals and small gifts, which are taxed by both state government and local government entities.

(4) Legislation related to contribution limits

Senate Bills 92 and 385 do relate to contribution limits, but such limits are much higher than the limits in the proposed measure. The limits in the bills were $5,000 and $10,000 for Senators, respectively. The proposed measure caps contributions for Senators at $1,000. The limits in the bills were $2,500 for Representatives. The proposed measure caps contributions for Representatives at $500. Under the proposed measure, total allowable lawful contributions would be much less than under Senate Bills 92 and 385. The effect on total campaign spending would therefore be drastically increased under the proposed measure when compared to the bills cited by Mr. Ketcher.

In addition, I understand the argument regarding reduced campaign spending is somewhat novel. While the research supports the argument, as highlighted in my submission, it is clear from previous initiative petitions relating to campaign finance in 2014 that state government entities had failed to previously consider the fiscal impact of reduced campaign spending. Their failure to consider this aspect of proposed contribution limits does not mean that there would be no fiscal impact, only that they have not previously considered or attempted to quantify such impact. My previous submission quantifies such impact using verifiable data and citations to valid authority.

I urge you to adopt the summary I previously submitted, despite Mr. Ketcher's submission.

Respectfully submitted,

Marc H. Ellinger, CPA
Attorney at Law

Brad Ketcher on behalf of Ballot Measure Group, LLC provided the following information as a proponent of the proposal to the State Auditor's office.

Fiscal Comments to Version 3: Art III Revision

Submitted by www.ballotmeasuregroup.com

Version 3 of the above-referenced initiative will have no impact on state or local government revenues. This proposal, which would implement legislative contribution limits, lobbyist gift restrictions and anti-revolving door provisions, among others, has been considered recently in one form or another by the Missouri Legislature.

For each of these legislative proposals, the Committee on Legislative Research, Oversight Division has assigned a "zero cost" fiscal note to the proposal.

The analogous legislative proposals include the following:

2013:

SB 4: http://www.moga.mo.gov/Oversight/OVER13/fishtm/0223-02N.ORG.htm

SB 38: http://www.moga.mo.gov/Oversight/OVER13/fishtm/0182-02N.ORG.htm

SB 78: http://www.moga.mo.gov/Oversight/OVER13/fishtm/0376-06N.ORG.htm

SB 92: http://www.moga.mo.gov/Oversight/OVER13/fishtm/0275-01N.ORG.htm

SB 385: http://www.moga.mo.gov/Oversight/OVER13/fishtm/1709-02N.ORG.htm

www.ballotmeasuregroup.com
PO Box 190201
St. Louis, MO 63119

The State Auditor's office did not receive a response from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate increased annual operating costs starting at $120,000. Local governmental entities estimate no impact to operating costs. Any potential impact to state and local governmental revenues is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-080)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112.5 million in excise tax collections if tax rates are the minimum 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 8 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax between 15% and 30% of the purchase price. This excise tax will not be a part of total state revenue and related expenditures not an expenditure of state government.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds

from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 8 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the

department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation

- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs

d. 15% for cities and counties
e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund

Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement	$4.00	Pros. Attorney Retirement Fund

Fund		
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in

their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated the petition calls for the imposition of a 15-30% excise tax on the sale of marijuana, and a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in the petition, such as the section that states that no state law may limit the number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-081)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112.5 million in excise tax collections if tax rates are the minimum 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 8 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax between 15% and 30% of the purchase price. This excise tax will not be a part of total state revenue and related expenditures not an expenditure of state government.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds

from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 8 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the

department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation

- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs

d. 15% for cities and counties
e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund

Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement	$4.00	Pros. Attorney Retirement Fund

Fund		
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in

their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-082)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

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Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

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Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $217,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $187,500 million in excise tax collections if tax rates are the minimum 25%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly

600 producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 8 marijuana plants and 16 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax of 25% of the purchase price.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this

dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 8 marijuana plants and 16 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health

and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to

use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.

- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties

e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund

Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund

Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate

the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $217 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-083)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

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The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

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Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 8 marijuana plants and 16 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax of 25% of the purchase price.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this

dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 8 marijuana plants and 16 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health

and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to

use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.

- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties

e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund

Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund

Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate

the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $217 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-084)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $217,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $187,500 million in excise tax collections if tax rates are 25%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 4 marijuana plants and 8 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax of 25% of the purchase price.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds

from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 4 marijuana plants and 8 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the

department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation

- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs

d. 15% for cities and counties
e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund

Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement	$4.00	Pros. Attorney Retirement Fund

Fund		
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in

their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $217 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-085)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $217,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $187,500 million in excise tax collections if tax rates are 25%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 4 marijuana plants and 8 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax of 25% of the purchase price.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this

dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 4 marijuana plants and 8 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

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Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health

and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to

use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.

- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties

e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund

Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
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Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund

Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate

the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $217 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-086)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $217,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $187,500 million in excise tax collections if tax rates are 25%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 6 marijuana plants and 12 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax of 25% of the purchase price.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this

dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 6 marijuana plants and 12 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

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and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

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Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

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    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to

use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.

- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties

e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund

Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund

Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate

the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $217 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-087)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112.5 million in excise tax collections if tax rates are the minimum 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It removes the language dealing with the definition for "Expungeable marijuana offense. It also sets out household exemption limits of 6 marijuana plants and 12 ounces of usable marijuana, 12 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax between 15% and 30% of the purchase price. This excise tax will not be a part of total state revenue and related expenditures not an expenditure of state government.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and

provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 6 marijuana plants and 12 ounces of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, regarding convictions of marijuana offenses being expungeable was removed and renumbered and now this section clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)15, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 16 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 17, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees

    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions

b. 25% for public institutions of elementary and secondary education
c. 20% for mental health and substance abuse programs
d. 15% for cities and counties
e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund

DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund

Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	**$33.50**	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-088)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112,500 million in excise tax collections if tax rates are 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 6 marijuana plants and 12 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax of a minimum of 15% of the purchase price.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this

dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 6 marijuana plants and 12 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health

and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to

use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.

- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties

e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund

Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
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Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
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Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund

Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate

the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-089)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112,500 million in excise tax collections if tax rates are 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 6 marijuana plants and 12 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax of a minimum of 15% of the purchase price.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this

dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 6 marijuana plants and 12 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be

subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to

use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.

- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties

e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund

Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
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the decrease.

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Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated Petitions 14-081, 14-087, 14-088, 14-089 and 14-090 each call for the imposition of a 15-30% excise tax on the sale of marijuana. Petitions 14-082, 14-083, 14-084, 14-085 and 14-086 each state that a 25% excise tax shall be imposed on marijuana sales. In all cases, a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place, nor the price of marijuana in Missouri. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in all of these petitions, such as the section that states that no state law may limit the aggregate number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-090)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112.5 million in excise tax collections if tax rates are the minimum 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 8 marijuana plants and 16 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax between 15% and 30% of the purchase price. This excise tax will not be a part of total state revenue and related expenditures not an expenditure of state government.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises.

Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 8 marijuana plants and 16 ounces of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the

department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation

- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs

d. 15% for cities and counties
e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund

Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement	$4.00	Pros. Attorney Retirement Fund

Fund		
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

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their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

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Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-091)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 13, 2013)

Date

January 6, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112.5 million in excise tax collections if tax rates are the minimum 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It removes the language dealing with the definition for "Expungeable marijuana offense. It also sets out household exemption limits of 4 marijuana plants and 8 ounces of usable marijuana, 12 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax between 15% and 30% of the purchase price. This excise tax will not be a part of total state revenue and related expenditures not an expenditure of state government.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and

provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 4 marijuana plants and 8 ounces of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, regarding convictions of marijuana offenses being expungeable was removed and renumbered and now this section clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)15, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 16 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 17, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees

    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions

b. 25% for public institutions of elementary and secondary education
c. 20% for mental health and substance abuse programs
d. 15% for cities and counties
e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund

Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund

Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in

their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated the petition calls for the imposition of a 15-30% excise tax on the sale of marijuana, and a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in the petition, such as the section that states that no state law may limit the number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

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MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-092)

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Date

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Description

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The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will create an unknown increase in state revenues.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112.5 million in excise tax collections if tax rates are the minimum 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 4 marijuana plants and 8 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax between 15% and 30% of the purchase price. This excise tax will not be a part of total state revenue and related expenditures not an expenditure of state government.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises.

Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 4 marijuana plants and 8 ounces of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The Division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however,

there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-092 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-082, 14-083, 14-084, 14-085, 14-086 set the tax rate at twenty-five percent.
    - Petitions 14-080, 14-081, 14-087, 14-088, 14-089, 14-090, 14-090, 14-091, and 14-092 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation

- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-087 and 14-091 does not permit expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-081, 14-083, 14-085, 14-086, 14-089, and 14-090 permit those persons incarcerated solely on charges related to marijuana offenses no longer illegal under this act to be immediately released.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact
The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs

d. 15% for cities and counties
e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the Stat Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund

Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement	$4.00	Pros. Attorney Retirement Fund

Fund		
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from **Cole County** indicated these fiscal notes will critically effect fiscal balance across the state of Missouri. Due to heightened abuse that will occur, as it clearly has with alcohol, heightened substance addiction will occur with the heightened crime and addiction treatment.

In Alaska, the State Supreme Court had said the right of the state to protect itself from an individual using marijuana was outweighed by the individual's right to use marijuana in

their own home. The result was an increase in violent crime. After recriminalized, violent crime dropped to close to pre-semi-legalization levels.

Marijuana legalization will burden all Missouri counties in a fiscally significant way, due to both violent crime and property crimes increasing. Lastly, understand the cost of addiction on society. Legalizing any drug will not reduce property and violent crimes or addiction treatment.

Officials from **St. Louis County** indicated the petition calls for the imposition of a 15-30% excise tax on the sale of marijuana, and a 15% subset of those monies (excluding an amount the general assembly deems necessary to carry out the state's obligations) is set aside for cities and counties. However, there is no description of how such dollars would be distributed between cities and counties (e.g., per capita), and it is not possible to estimate the amount of marijuana sales that would take place. The fiscal impact of the petition is not calculable in any meaningful way.

Also, there is unclear language in the petition, such as the section that states that no state law may limit the number of marijuana licenses, provided that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants. This section on page five appears to dictate a minimum number of marijuana retailers based on population, which is unenforceable. Neither state nor local governments can mandate a particular number of retailers within their jurisdictions.

Officials from the **City of Jefferson** indicated no fiscal impact for their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Transportation**, **Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-096)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article X. (Received December 23, 2013)

Date

January 13, 2014

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

Section 26
The proposal imposes a new special assessment in the amount of $0.034 on the sale of every vapor product unit. In addition, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale of non-participating manufacturer cigarettes at the rate of $0.55 per package of 20 cigarettes. We defer to DOR in regard to collection amounts resulting from the assessments and fees.

Section 27
The individual income tax is reduced per "reduction factor" (i.e. the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected from the fees or assessments imposed). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year. If the existing rate of the individual income tax is one tenth of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

Summary
All revenues generated shall be used to reduce the individual income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the proposal appears to address the reduction and\or permanent elimination of the individual income tax rate. It does not appear to allow for an increase or adjustment to the individual income tax rate when the collection of assessments and fees are insufficient to cover the reduction factor in any previous year. This could ultimately lead to a situation where there are minimal taxes collected from individual income taxes and minimal collections from the assessments and fees created here, such that state revenues could be significantly diminished. This would negatively impact the state school foundation formula.

Officials from the **Department of Higher Education** indicated this proposal would not result in any costs or savings for their department. Although the petition would levy new taxes, it appears the adjustment to other taxes would result in a zero total impact. In any regard, the potential change in revenue is unknown and would not constitute a savings to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased operating costs for the department will be $258,724 for fiscal year 2015, $206,774 for fiscal year 2016, and $208,925 for fiscal year 2017.

The IT portion of this fiscal impact is estimated with a level of effort valued at $55,037. This value is based on 2,016 FTE hours.

This amendment may result in a decrease in Total State Revenue. The increase due to the $0.034 tax on vapor product units is unknown. The $0.55 assessment on all non-participating manufacturer cigarettes will result in an increase of $71.2 million in the first year. This increase will result in a reduction in the individual income tax rate to 5.8 percent, decreasing general revenue by an estimated $138 million. The department assumes that the assessments charged to vapor unit products and non-participating manufacturer cigarette packages will be deposited into the General Revenue fund, resulting in a net loss of $66.8 million dollars to general revenue.

The increase in assessments on vapor products and cigarettes increases state revenues. However, the permanent reduction in individual income tax rates will result in a reduction of general revenue.

Section 26
This section proposes a new assessment of $0.034 on vapor product units. The revenue generated from this assessment reduces the individual income tax rate. The petition also imposes an equity assessment fee of $0.55 per pack of non-participating manufacturer cigarettes. In addition to the above assessments, the petition makes any person that, for commercial purposes, operates or maintains a machine that enables a person to create a "roll your own" cigarette to be considered a manufacturer.

The department has no information on the number of vapor product units sold in the state. OA-BP may be able to provide more information on the impact of this assessment.

In calendar year 2012, 133.4 million non-participating manufacturer cigarette packages were sold. The $0.55 assessment on all will increase revenues by $71.2 million dollars, assuming wholesalers receive the 3 percent discount established in Chapter 149, RSMo.

If revenues are increased due to these assessments, the individual income tax rate will be reduced ro 5.8 percent, resulting in a loss to general revenue of $138 million dollars the first year the rate is reduced.

Section 27
This section permanently reduces individual income tax by the amount collected by the state from the assessments imposed in Section 26.

Administrative Impact:
Personal Tax:
Section 27
Personal Tax requires programming support and forms changes. Additionally, one (1) Revenue Processing Technician I will be required to process correspondence.

Collections & Tax Assistance (CATA):
Based on Section 27(b), CATA anticipates additional customer contacts due to the tax rate change and adjustment notices. CATA requires two (2) Tax Collection Technicians I for additional contacts on the non-delinquent and delinquent tax lines and one (1) Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and licenses.

Excise Tax:
Section 26(a)
Depending on who collects the tax, either 250 licensed wholesalers or approximately 4,500 retailers need to be notified of the provisions of this amendment. New reporting forms would need to be developed and a program would be needed to track the information.

Excise Tax requires one (1) Revenue Processing Technician I for every 3,000 returns.

Section 26(b)
The department assumes that all revenues collected would go to the General Revenue fund. This would require changes to the cashiering functions and to SAM II entry.

Section 26(d)
This section requires a Constitutional Amendment for any future increase to the tax, license, fee or special assessment on cigarettes or tobacco products.

Section 26(f)
The department assumes that any use of these machines in a commercial setting, which would include private or social clubs, will be considered manufacturing cigarettes. This would be in line with federal guidelines.

Section 26(g)
New reporting forms would need to be developed, 120 cigarette wholesalers would need to be notified, the Peach Tree Accounting System would require updating to allow for the tax rate and changes would need to be made to cashiering functions and to SAM II entry.

ITSD-DOR:
Individual: Tax rate reduction – 504 hours
Excise: New Vapor Product Excise Tax system – 1008 hours
New assessment on non-participating manufacturer cigarettes – 504 hours

Total: 2,016 FTE Hours

Comments:

Section 26
Although it is not stated within this amendment, the department assumes that the assessments collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Currently, the department collects other tobacco products tax on the manufacturer's invoice price of a product. The petition bases special assessment on vapor product units, which are defined as .05 fluid ounces of specified material.

Internet research indicates most material containing nicotine is measured in milliliters (ml) not ounces. Therefore, conversion will be needed to determine the special assessment amount based upon ounces. Additionally electronic cigarette kits contain cartridges containing small amounts of fluid (usually somewhere between 3 to 7 drops). This may be difficult to calculate the amount due.

It is also unclear if the vapor product unit must contain at least .05 ounces. It is unclear if a kit that contains two cartridges that hold less than .05 ounces is still subject to assessment. The department assumes that the assessment can be based upon a fractional part of .05 ounces. The department also assumes that if a product contains 30 ml then that would be converted to ounces and divided by .05 to determine the number of "Vapor Product Units" subject to assessment.

The language is unclear as to who would be responsible for remitting the special assessment on vapor product units, the wholesaler or the retailer.

If the FDA regulates these products under Chapter V of the Food, Drug and Cosmetics Act, they would no longer be subject to the special assessment.

It is unclear if the person responsible for collecting the special assessment would need to be licensed or not. If licensing of retailers is required, additional personnel will be needed. Additionally, if licensing is required, it is unclear if the requirements in Chapter 149, which impose a yearly fee and requiring submission of a bonding instrument, apply. There does not appear to be any penalty provisions for non-compliance. It is unclear if the person remitting the tax will be granted any collection allowances. There are no refund provisions. The legislature is not authorized to enact any implementing legislation.

The department assumes the effective date of this legislation would be upon certification of the election results by the Secretary of State. This would not allow sufficient time to make all the necessary form changes, programming changes and notifications. It is recommended that the effective date be changed to July 1, 2015.

Current cigarette taxes are imposed upon the consumer. This legislation appears to impose the tax on the wholesaler, making the assessment fee subject to sales tax. This may be confusing to retailers, as they currently do not charge sales tax on the state cigarette tax.

As this legislation requires that the assessment be collected in the same manner as other cigarette tax, this would require the design and purchase of new cigarette stamps to be used only on non-participating manufacturer cigarettes. Because of the special assessment in this section, an additional series of stamps would have to be designed and purchased. Requiring separate stamps would put a burden on the wholesaler.

The department budgets for and purchases all cigarette stamps for the fiscal year at one time. The implementation of a new tax at a time other than the beginning of a fiscal year could result in inventory of stamps that will be obsolete and would have to be destroyed. Additionally there may not be sufficient funds in the budget to allow the purchase of the new stamps.

The department assumes that the compensation allowance of 3 percent provided for in Chapter 149.021 RSMo would apply to the special assessment fee as the fee is to be collected in the same way as other cigarette taxes. The department also assumes that this would allow for the credit or refund on returned stamps.

The department assumes that any use of rolling machines in a commercial setting under Section 26(g), which would include private or social clubs, will be considered manufacturing cigarettes.

Section 27
This section allows for the individual income tax to be permanently reduced. However it does not provide for any increase if in future years the revenues for the special assessments imposed in Section 26 decreases. It is also unclear if the rate reduction occurs if the assessment amounts collected remain the same from year to year. The

language is also vague as to who is responsible for determining whether the decrease is reoccurring.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department. Since the budget of any state agency is dependent upon the appropriations process, they cannot predict whether their department might be affected if this proposal were to result in a change in the total amount of general revenue available to fund state government.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency as a result of the passage of this initiative petition.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact from this initiative petition.

Officials from the **Office of Administration** indicated:

These proposals create, upon voter approval, additional taxes on various tobacco products.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

<u>Vapor Product Units (all versions):</u>
The proposals create an additional tax of $0.034 levied on each "Vapor Product Unit" (VPU), defined as 0.05 fl. oz. of nicotine product.

- According to a recent analysis by Wells Fargo Securities,[1] national sales of e-cigarettes will total $1.7 billion in 2013.
- BAP assumes 2% of this figure represents sales in MO, and of this, 90% is sales of VPUs, or about $32M.
- BAP assumes these sales are in the form of "cartridges" that retail for $2 each, or 16M cartridges. Also, each cartridge contains 1.5 mL of liquid, for a total of 24M mL. However, there are numerous e-cigarette products, with various amounts of fluid, offered at an array of prices for consumers to choose from.
- BAP notes that 24M mL is about 0.812M fl. Oz,[2] which implies about 16.231M VPUs are sold in MO.

[1] http://www.cnbc.com/id/100991511#_gus
[2] http://www.convertunits.com/from/fluid+ounces/to/ml

- At $0.034 per VPU, this would generate about $0.552M in additional revenues.

Cigarette Tax (versions 97, 98, 99):
The proposals create an additional cigarette tax of $0.17 per pack, which doubles the current rate of tax. BAP notes that cigarette tax revenues in FY13 totaled just over $86.8M. However, the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $81.8M of revenues.

Equity Assessment Fee for NPMs (all versions):
The proposals create an Equity Assessment Fee of $0.55 per pack for the sale of Non-Participating Manufacturer cigarettes. The DOR may have an estimate of the revenue that may be generated.

Rolling Taxes (all versions, v. 96&99 match, and v. 97&98 match).
The proposals stipulate that any operator of a machine that allows any person to process tobacco into a roll or tube, or that provides access to such machinery, is a manufacturer. This may increase revenues, to the extent that sellers of rolling services remit taxes based on stamped products, instead of paying the "other tobacco products" taxes they may currently be paying.

Income Tax Reduction Factor (all versions):
The proposals require the existing rate of the individual income tax to be reduced by a "reduction factor." There are several marginal income tax rates in statute; BAP assumes this proposal refers to the top marginal rate in effect. The "reduction factor" means the percentage, rounded to the nearest tenth, but not less than 0.1%, sufficient to reduce collections by an amount equal to the tobacco taxes collected above. Based on 2011 Tax Year data, BAP estimates each 0.1% reduction may reduce revenues by $69M or more, depending on the rate in effect. Thus, the "reduction factor" may be rounded up to as much as 0.3%, for a reduction of at least $207M. Therefore, it is possible the reduction in income taxes may exceed the new tobacco revenues.

The reduction factor is be based on the new tobacco revenues collected in "any state fiscal year," as described in proposed subsection 27(a). Further, the proposed subsection 27(b) requires the income tax rate to be "permanently reduced" effective the immediately ensuing tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if the collection of tobacco taxes remains stable or decreases, or if income taxes declines because of economic conditions. This situation is further implied in proposed subsection 27(c), which requires the elimination of the income tax if the existing rate is 0.1 percent or less. It might follow that this proposal eliminates the income tax in twenty to sixty years, so long as any of the proposed tobacco revenues continue to be collected, eliminating $6 billion in revenue based on current collections.

Other Comments:

The reduction in income tax rates will reduce general revenues. However, it is unclear from this proposal if the new tobacco revenues will be deposited into general revenue or other dedicated funds.

Any reduction in the number of tobacco products sold may also reduce sales taxes. This would further reduce general revenues, as well as those for schools and other dedicated fun

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has zero fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city.

Officials from the **City of Kansas City** indicated this initiative petition would have no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated as of now, this would have no impact on city finances one way or another. Should the city ever enact a personal income tax, the proposed reduction factor could negatively impact revenues with no corresponding revenues from this new tax to replace them.

Officials from the **Hannibal 60 School District** indicated it is their belief that, if passed, this initiative petition would have a negative impact on Elementary and Secondary Education. The permanent reduction of taxes could negatively impact education for many years to come.

Officials from **University of Missouri** indicated the fiscal impact on their university would be tax neutral in that additional revenues generated will be used to reduce the individual income tax.

Officials from the **University of Central Missouri** indicated they estimate no fiscal impact from this initiative petition.

Officials from **Northwest Missouri State University** indicated no impact.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, St. Louis Community College, Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Southeast Missouri State University**, and **Truman State University.**

Fiscal Note Summary

Taxes and fees collected annually under the proposal are used to calculate permanent reductions to the individual income tax rate. This process over several decades could eliminate the individual income tax, which would be approximately $6 billion in annual revenue based on current collections. Whether the proposal will be revenue neutral cannot be determined.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-097)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article X. (Received December 23, 2013)

Date

January 13, 2014

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

Section 26
In addition to all other taxes imposed on tobacco products, an additional special assessment of $0.17 per package of 20 cigarettes shall be paid by the wholesaler. The proposal also imposes a new special assessment in the amount of $0.034 on the sale of every vapor product unit. In addition, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale of non-participating manufacturer cigarettes at the rate of $0.55 per package of 20 cigarettes. We defer to DOR in regard to collection amounts resulting from the assessments and fees.

Section 27
The individual income tax is reduced per "reduction factor" (i.e. the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected from the fees or assessments imposed). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year. If the existing rate of the individual income tax is one tenth of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

Summary
All revenues generated shall be used to reduce the individual income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the proposal appears to address the reduction and\or permanent elimination of the individual income tax rate. It does not appear to allow for an increase or adjustment to the individual income tax rate when the collection of assessments and fees are insufficient to cover the reduction factor in any previous year. This could ultimately lead to a situation where there are minimal taxes collected from individual income taxes and minimal collections from the assessments and fees created here, such that state revenues could be significantly diminished. This would negatively impact the state school foundation formula.

Officials from the **Department of Higher Education** indicated this proposal would not result in any costs or savings for their department. Although the petition would levy new taxes, it appears the adjustment to other taxes would result in a zero total impact. In any

regard, the potential change in revenue is unknown and would not constitute a savings to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased operating costs for the department will be $298,756 for fiscal year 2015, $248,128 for fiscal year 2016, and $250,711 for fiscal year 2017.

The IT portion of this fiscal impact is estimated with a level of effort valued at $55,037. This value is based on 2,016 FTE hours.

This amendment may result in decrease in Total State Revenue. While the increase due to the $0.034 tax on vapor product units is unknown, the $0.17 assessment fee on all cigarette packages will increase revenues by $88.5 million the first year the amendment goes into effect. The $0.55 assessment fee on all non-participating manufacturer cigarettes will result in an increase of $71.2 million. This increase will result in a reduction in the individual income tax rate of 0.3 percent, decreasing general revenue by an estimated $206.3 million. The department assumes that the assessments charged to vapor unit products and non-participating manufacturer cigarette packages will be deposited into the General Revenue fund, resulting in a net loss of $46.6 million dollars to general revenue.

The increase in assessments on vapor products and cigarettes increases state revenues. But, if the amendment permanently reduces individual income based on the increased assessments and then vapor products and cigarette sales decrease, this may lead to a decrease in state revenues.

Section 26
This version of the petition adds an additional $0.17 per pack special assessment on cigarettes purchased after the effective date of this amendment. This section also proposes a new assessment of $0.034 on vapor product units, and an additional $0.55 assessment on all non-participating manufacturer cigarettes. The revenue generated from these assessments reduces the individual income tax.

In calendar year 2012, 536.5 million packages of cigarettes were reported as being stamped for sale in the state of Missouri. The $0.17 assessment fee will increase revenues by an estimated $88.5 million, assuming the wholesalers receive the 3 percent discount established in Chapter 149, RSMo. The department has no information on the number of vapor product units sold in the state. OA-BP may be able to provide more information on the impact of this assessment.

In calendar year 2012, 133.4 million non-participating manufacturer cigarette packages were sold. The $0.55 assessment on all will increase revenues by $71.2 million dollars, assuming wholesalers receive the 3 percent discount.

If revenues are increased due to these assessments, the individual income tax rate will be reduced to 5.7 percent, resulting in a loss to general revenue of $206.3 million dollars the first year the rate is reduced.

In addition to the above assessments, the petition requires any person providing automatic cigarette manufacturing services be considered a manufacturer unless the consumer gets exclusive title to and possession of the manufacturing equipment prior to its use. No person can possess more than 1,000 cigarettes unless the person has a retail sales license. The department may require manufacturers, wholesalers, and retailers to provide an annual report on the quantity of cigarettes sold in the prior year.

Section 27
This section permanently reduces individual income tax by the amount collected by the state from the assessments imposed in Section 26.

Administrative Impact:

Personal Tax:
Section 27
Personal Tax requires programming support and forms changes. This will require one (1) Revenue Processing Technician I to process correspondence.

Collections & Tax Assistance (CATA):
CATA anticipates additional customer contacts due to the tax rate change and adjustment notices. CATA requires two (2) Tax Collection Technicians I for additional contacts on the non-delinquent and delinquent tax lines and one (1) Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and licenses.

Excise Tax:
Section 26(b)
Depending on who collects the tax, either 250 licensed wholesalers or approximately 4,500 retailers need to be notified of the provisions of this amendment. New reporting forms would need to be developed and a program would be needed to track the information.

Excise Tax requires one (1) Revenue Processing Technician I for every 3,000 returns.

Section 26(c)
The department assumes that all revenues collected would go to the general revenue fund. This would require changes to the cashiering functions and to SAM II entry.

Section 26(e)
This section requires a Constitutional Amendment for any future increase to the tax, license, fee or special assessment on cigarettes or tobacco products.

Section 26(h)
New reporting forms would need to be developed, 120 cigarette wholesalers would need to be notified, the Peach Tree Accounting System would require updating to allow for the tax rate, and changes would need to be made to cashiering functions and to SAM II entry.

Section 26(j)
If the department decides to exercise this option of requiring annual reports, then forms would need to be developed, some type of program would need to be developed in order to track the information.

Generally manufacturers and wholesalers already file reports, however if retailers were required to file reports, they would need to be identified. One FTE would be needed for every 3,000 reports filed.

ITSD-DOR:
Individual: Tax rate reduction – 504 hours
Excise: New Vapor Product Excise Tax system – 1008 hours
New assessment on non-participating manufacturer cigarettes – 504 hours
Total: 2,016 FTE Hours

Comments:

Section 26
Although it is not stated within this amendment, the department assumes that the assessments collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Currently, the department collects other tobacco product's tax on the manufacturer's invoice price of a product. To collect the special assessment based upon a number of ounces provides special challenges for the department.

Internet research indicates most material containing nicotine is measured in milliliters (ml) not ounces. Therefore, conversion will be needed to determine the special assessment amount based upon ounces. Additionally electronic cigarette kits contain cartridges containing small amounts of fluid (usually somewhere between 3 to 7 drops). This may be difficult to calculate the amount due.

It is also unclear if the vapor product unit must contain at least .05 ounces. It is unclear if a kit that contains two cartridges that hold less than .05 ounces is still subject to assessment. The department assumes that the assessment can be based upon a fractional part of .05 ounces. The department also assumes that if a product contains 30 ml then that would be converted to ounces and divided by .05 to determine the number of "Vapor Product Units" subject to assessment.

The language is unclear as to who would be responsible for remitting the special assessment fee whether at the sale by the wholesaler to the retailer or at the sale by the retailer to the consumer.

If the FDA should ever regulate these products under Chapter V, they would no longer be subject to the special assessment.

It is unclear if the person responsible for collecting the special assessment would need to be licensed or not. If licensing of retailers is required, additional personnel will be needed. Additionally, if licensing is required, it is unclear if the requirements in Chapter 149 can be applied, which impose a yearly fee and requiring submission of a bonding instrument.

There does not appear to be any penalty provisions for non-compliance. It is unclear if the person remitting the tax will be granted any collection allowances. There are no refund provisions.

The department assumes the effective date of this legislation would be upon certification of the election results by the Secretary of State. This would not allow sufficient time to make all the necessary form changes, programming changes and notifications. It is recommended that the effective date be changed to July 1, 2015. This will also reduce the burden on the wholesalers required to implement the assessment in the middle of the month.

Although it is not stated within this amendment, the department assumes that the assessments collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Current cigarette taxes are imposed upon the consumer. This legislation appears to impose the tax on the wholesaler, making the assessment fee subject to sales tax. This may be confusing to retailers, as they currently do not charge sales tax on the state cigarette tax.

As this legislation requires that the assessment be collected in the same manner as other cigarette tax, this would require the design and purchase of new cigarette stamps to be used only on non-participating manufacturer cigarettes. Because of the special assessment in this section, an additional series of stamps would have to be designed and purchased. Although a separate stamp could be developed, in consultation with a cigarette wholesaler, this would put an extreme burden on wholesaler in order to apply separate stamps to each pack of cigarettes.

The department budgets for and purchases all cigarette stamps for the fiscal year at one time. The implementation of a new tax at a time other than the beginning of a fiscal year could result in inventory of stamps that will be obsolete and would have to be destroyed. Additionally, there may not be sufficient funds in the budget to allow the purchase of the new stamps.

The department assumes that the compensation allowance of 3 percent provided for in Chapter 149.021 RSMo would apply to the special assessment fee, as the fee is to be collected in the same way as other cigarette taxes. The department also assumes that as this assessment is to be collected in the same manner as other cigarette taxes, this would allow for the credit or refund on returned stamps.

Section 26(i) states that no person required to have a license may buy or sell tobacco products from an unlicensed person. It is unclear as to what type of license they are referring to.

Section 27
This section allows for the individual income tax to be permanently reduced. However it does not provide for any increase if in future years the revenues for the special assessments imposed in Section 26 decreases. It is also unclear if the rate reduction occurs if the assessment amounts collected remain the same from year to year. The language is also vague as to who is responsible for determining whether the decrease is reoccurring.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department. Since the budget of any state agency is dependent upon the appropriations process, they cannot predict whether their department might be affected if this proposal were to result in a change in the total amount of general revenue available to fund state government.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency as a result of the passage of this initiative petition.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact from this initiative petition.

Officials from the **Office of Administration** indicated:

These proposals create, upon voter approval, additional taxes on various tobacco products.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

Vapor Product Units (all versions):
The proposals create an additional tax of $0.034 levied on each "Vapor Product Unit" (VPU), defined as 0.05 fl. oz. of nicotine product.

- According to a recent analysis by Wells Fargo Securities,[1] national sales of e-cigarettes will total $1.7 billion in 2013.
- BAP assumes 2% of this figure represents sales in MO, and of this, 90% is sales of VPUs, or about $32M.
- BAP assumes these sales are in the form of "cartridges" that retail for $2 each, or 16M cartridges. Also, each cartridge contains 1.5 mL of liquid, for a total of 24M mL. However, there are numerous e-cigarette products, with various amounts of fluid, offered at an array of prices for consumers to choose from.
- BAP notes that 24M mL is about 0.812M fl. Oz,[2] which implies about 16.231M VPUs are sold in MO.
- At $0.034 per VPU, this would generate about $0.552M in additional revenues.

Cigarette Tax (versions 97, 98, 99):
The proposals create an additional cigarette tax of $0.17 per pack, which doubles the current rate of tax. BAP notes that cigarette tax revenues in FY13 totaled just over $86.8M. However, the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $81.8M of revenues.

Equity Assessment Fee for NPMs (all versions):
The proposals create an Equity Assessment Fee of $0.55 per pack for the sale of Non-Participating Manufacturer cigarettes. The DOR may have an estimate of the revenue that may be generated.

[1] http://www.cnbc.com/id/100991511#_gus
[2] http://www.convertunits.com/from/fluid+ounces/to/ml

Rolling Taxes (all versions, v. 96&99 match, and v. 97&98 match).
The proposals stipulate that any operator of a machine that allows any person to process tobacco into a roll or tube, or that provides access to such machinery, is a manufacturer. This may increase revenues, to the extent that sellers of rolling services remit taxes based on stamped products, instead of paying the "other tobacco products" taxes they may currently be paying.

Income Tax Reduction Factor (all versions):
The proposals require the existing rate of the individual income tax to be reduced by a "reduction factor." There are several marginal income tax rates in statute; BAP assumes this proposal refers to the top marginal rate in effect. The "reduction factor" means the percentage, rounded to the nearest tenth, but not less than 0.1%, sufficient to reduce collections by an amount equal to the tobacco taxes collected above. Based on 2011 Tax Year data, BAP estimates each 0.1% reduction may reduce revenues by $69M or more, depending on the rate in effect. Thus, the "reduction factor" may be rounded up to as much as 0.3%, for a reduction of at least $207M. Therefore, it is possible the reduction in income taxes may exceed the new tobacco revenues.

The reduction factor is be based on the new tobacco revenues collected in "any state fiscal year," as described in proposed subsection 27(a). Further, the proposed subsection 27(b) requires the income tax rate to be "permanently reduced" effective the immediately ensuing tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if the collection of tobacco taxes remains stable or decreases, or if income taxes declines because of economic conditions. This situation is further implied in proposed subsection 27(c), which requires the elimination of the income tax if the existing rate is 0.1 percent or less. It might follow that this proposal eliminates the income tax in twenty to sixty years, so long as any of the proposed tobacco revenues continue to be collected, eliminating $6 billion in revenue based on current collections.

Other Comments:

The reduction in income tax rates will reduce general revenues. However, it is unclear from this proposal if the new tobacco revenues will be deposited into general revenue or other dedicated funds.

Any reduction in the number of tobacco products sold may also reduce sales taxes. This would further reduce general revenues, as well as those for schools and other dedicated funds.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city.

Officials from the **City of Kansas City** indicated this initiative petition would have no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated as increase in cigarette taxes could negatively impact revenues should customers find it less expensive to hop over to Kansas and purchase cigarettes there.

As of now, the tax on "vapor products" would have no impact on city finances one way or another. Should the city ever enact a personal income tax, the proposed reduction factor could negatively impact revenues with no corresponding revenues from the new special assessment tax to replace them.

Officials from the **Hannibal 60 School District** indicated it is their belief that, if passed, this initiative petition would have a negative impact on Elementary and Secondary Education. The permanent reduction of taxes could negatively impact education for many years to come.

Officials from **University of Missouri** indicated the fiscal impact on their university would be tax neutral in that additional revenues generated will be used to reduce the individual income tax.

Officials from the **University of Central Missouri** indicated they estimate no fiscal impact from this initiative petition.

Officials from **Northwest Missouri State University** indicated no impact.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, St. Louis Community College, Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Southeast Missouri State University**, and **Truman State University.**

Fiscal Note Summary

Taxes and fees collected annually under the proposal are used to calculate permanent reductions to the individual income tax rate. This process over several decades could eliminate the individual income tax, which would be approximately $6 billion in annual revenue based on current collections. Whether the proposal will be revenue neutral cannot be determined.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-098)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article X. (Received December 23, 2013)

Date

January 13, 2014

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

Section 26
In addition to all other taxes imposed on tobacco products, an additional special assessment of $0.17 per package of 20 cigarettes shall be paid by the wholesaler. The proposal also imposes a new special assessment in the amount of $0.034 on the sale of every vapor product unit. In addition, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale of non-participating manufacturer cigarettes at the rate of $0.55 per package of 20 cigarettes. We defer to DOR in regard to collection amounts resulting from the assessments and fees.

Section 27
The individual income tax is reduced per "reduction factor" (i.e. the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected from the fees or assessments imposed). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year. If the existing rate of the individual income tax is one tenth of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

Summary
All revenues generated shall be used to reduce the individual income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the proposal appears to address the reduction and\or permanent elimination of the individual income tax rate. It does not appear to allow for an increase or adjustment to the individual income tax rate when the collection of assessments and fees are insufficient to cover the reduction factor in any previous year. This could ultimately lead to a situation where there are minimal taxes collected from individual income taxes and minimal collections from the assessments and fees created here, such that state revenues could be significantly diminished. This would negatively impact the state school foundation formula.

Officials from the **Department of Higher Education** indicated this proposal would not result in any costs or savings for their department. Although the petition would levy new taxes, it appears the adjustment to other taxes would result in a zero total impact. In any

regard, the potential change in revenue is unknown and would not constitute a savings to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased operating costs for the department will be $258,724 for fiscal year 2015, $206,774 for fiscal year 2016, and $208,925 for fiscal year 2017.

The IT portion of this fiscal impact is estimated with a level of effort valued at $55,037. This value is based on 2,016 FTE hours.

This amendment may result in decrease in Total State Revenue. While the increase due to the $0.034 tax on vapor product units is unknown, the $0.17 assessment fee on all cigarette packages will increase revenues by $88.5 million the first year the amendment goes into effect. The $0.55 assessment fee on all non-participating manufacturer cigarettes will result in an increase of $71.2 million. This increase will result in a reduction in the individual income tax rate of 0.3 percent, decreasing general revenue by an estimated $206.3 million. The department assumes that the assessments charged to vapor unit products and non-participating manufacturer cigarette packages will be deposited into the General Revenue fund, resulting in a net loss of $46.6 million dollars to general revenue.

The increase in assessments on vapor products and cigarettes increases state revenues. But, if the amendment permanently reduces individual income based on the increased assessments and then vapor products and cigarette sales decrease, this may lead to a decrease in state revenues.

Section 26
This version of the petition adds an additional $0.17 per pack special assessment on cigarettes purchased after the effective date of this amendment. This section also proposes a new assessment of $0.034 on vapor product units, and an additional $0.55 assessment on all non-participating manufacturer cigarettes. The revenue generated from these assessments reduces the individual income tax.

In calendar year 2012, 536.5 million packages of cigarettes were reported as being stamped for sale in the state of Missouri. The $0.17 assessment fee will increase revenues by an estimated $88.5 million, assuming the wholesalers receive the 3 percent discount established in Chapter 149, RSMo. The department has no information on the number of vapor product units sold in the state. OA-BP may be able to provide more information on the impact of this assessment.

In calendar year 2012, 133.4 million non-participating manufacturer cigarette packages were sold. The $0.55 assessment on all will increase revenues by $71.2 million dollars, assuming wholesalers receive the 3 percent discount.

If revenues are increased due to these assessments, the individual income tax rate will be reduced to 5.7 percent, resulting in a loss to general revenue of $206.3 million dollars the first year the rate is reduced.

Section 27
This section permanently reduces individual income tax by the amount collected by the state from the assessments imposed in Section 26.

Administrative Impact:

Personal Tax:
Section 27
Personal Tax requires programming support and forms changes. Additionally, one (1) Revenue Processing Technician I will be required to process correspondence.

Collections & Tax Assistance (CATA):
Based on Sections 27(a) and 27(b), CATA anticipates additional customer contacts due to the tax rate change and adjustment notices. CATA requires two (2) Tax Collection Technicians I for additional contacts on the non-delinquent and delinquent tax lines and one (1) Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and licenses.

Excise Tax:
Section 26(a)
Depending on who collects the tax, either 250 licensed wholesalers or approximately 4,500 retailers need to be notified of the provisions of this amendment. New reporting forms would need to be developed and a program would be needed to track the information.

Excise Tax requires one (1) Revenue Processing Technician I for every 3,000 returns.

Section 26(b)
The department assumes that all revenues collected would go to the general revenue fund. This would require changes to the cashiering functions and to SAM II entry.

Section 26(d)
This section requires a Constitutional Amendment for any future increase to the tax, license, fee or special assessment on cigarettes or tobacco products.

Section 26(f)
The department assumes that any use of these machines in a commercial setting, which would include private or social clubs, will be considered manufacturing cigarettes. This would be in line with federal guidelines.

Section 26(g)
New reporting forms would need to be developed, 120 cigarette wholesalers would need to be notified, the Peach Tree Accounting System would require updating to allow for the tax rate, and changes would need to be made to cashiering functions and to SAM II entry.

ITSD-DOR:
Individual: Tax rate reduction – 504 hours
Excise: New Vapor Product Excise Tax system – 1008 hours
New assessment on non-participating manufacturer cigarettes – 504 hours
Total: 2,016 FTE Hours

Comments:

Section 26
Although it is not stated within this amendment, the department assumes that the assessments collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Currently, the department collects other tobacco products tax on the manufacturer's invoice price of a product. The petition bases special assessment on vapor product units, which are defined as .05 fluid ounces of specified material.

Internet research indicates most material containing nicotine is measured in milliliters (ml) not ounces. Therefore, conversion will be needed to determine the special assessment amount based upon ounces. Additionally electronic cigarette kits contain cartridges containing small amounts of fluid (usually somewhere between 3 to 7 drops). This may be difficult to calculate the amount due.

It is also unclear if the vapor product unit must contain at least .05 ounces. It is unclear if a kit that contains two cartridges that hold less than .05 ounces is still subject to

assessment. The department assumes that the assessment can be based upon a fractional part of .05 ounces. The department also assumes that if a product contains 30 ml then that would be converted to ounces and divided by .05 to determine the number of "Vapor Product Units" subject to assessment.

The language is unclear as to who would be responsible for remitting the special assessment on vapor product units, the wholesaler or the retailer.

If the FDA regulates these products under Chapter V of the Food, Drug and Cosmetics Act, they would no longer be subject to the special assessment.

It is unclear if the person responsible for collecting the special assessment would need to be licensed or not. If licensing of retailers is required, additional personnel will be needed. Additionally, if licensing is required, it is unclear if the requirements in Chapter 149, which impose a yearly fee and requiring submission of a bonding instrument, apply.

There does not appear to be any penalty provisions for non-compliance. It is unclear if the person remitting the tax will be granted any collection allowances. There are no refund provisions. The legislature is not authorized to enact any implementing legislation.

The department assumes the effective date of this legislation would be upon certification of the election results by the Secretary of State. This would not allow sufficient time to make all the necessary form changes, programming changes and notifications. It is recommended that the effective date be changed to July 1, 2015.

Current cigarette taxes are imposed upon the consumer. This legislation appears to impose the tax on the wholesaler, making the assessment fee subject to sales tax. This may be confusing to retailers, as they currently do not charge sales tax on the state cigarette tax.

As this legislation requires that the assessment be collected in the same manner as other cigarette tax, this would require the design and purchase of new cigarette stamps to be used only on non-participating manufacturer cigarettes. Because of the special assessment in this section, an additional series of stamps would have to be designed and purchased. Requiring separate stamps would put a burden on the wholesaler.

The department budgets for and purchases all cigarette stamps for the fiscal year at one time. The implementation of a new tax at a time other than the beginning of a fiscal year could result in inventory of stamps that will be obsolete and would have to be destroyed. Additionally there may not be sufficient funds in the budget to allow the purchase of the new stamps.

The department assumes that the compensation allowance of 3 percent provided for in Chapter 149.021 RSMo would apply to the special assessment fee as the fee is to be collected in the same way as other cigarette taxes. The department also assumes that this would allow for the credit or refund on returned stamps.

The department assumes that any use of rolling machines in a commercial setting under Section 26(g), which would include private or social clubs, will be considered manufacturing cigarettes.

Section 27
This section allows for the individual income tax to be permanently reduced. However it does not provide for any increase if in future years the revenues for the special assessments imposed in Section 26 decreases. It is also unclear if the rate reduction occurs if the assessment amounts collected remain the same from year to year. The language is also vague as to who is responsible for determining whether the decrease is reoccurring.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department. Since the budget of any state agency is dependent upon the appropriations process, they cannot predict whether their department might be affected if this proposal were to result in a change in the total amount of general revenue available to fund state government.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency as a result of the passage of this initiative petition.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact from this initiative petition.

Officials from the **Office of Administration** indicated:

These proposals create, upon voter approval, additional taxes on various tobacco products.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

<u>Vapor Product Units (all versions):</u>
The proposals create an additional tax of $0.034 levied on each "Vapor Product Unit" (VPU), defined as 0.05 fl. oz. of nicotine product.

- According to a recent analysis by Wells Fargo Securities,[1] national sales of e-cigarettes will total $1.7 billion in 2013.

[1] http://www.cnbc.com/id/100991511#_gus

- BAP assumes 2% of this figure represents sales in MO, and of this, 90% is sales of VPUs, or about $32M.
- BAP assumes these sales are in the form of "cartridges" that retail for $2 each, or 16M cartridges. Also, each cartridge contains 1.5 mL of liquid, for a total of 24M mL. However, there are numerous e-cigarette products, with various amounts of fluid, offered at an array of prices for consumers to choose from.
- BAP notes that 24M mL is about 0.812M fl. Oz,[2] which implies about 16.231M VPUs are sold in MO.
- At $0.034 per VPU, this would generate about $0.552M in additional revenues.

Cigarette Tax (versions 97, 98, 99):
The proposals create an additional cigarette tax of $0.17 per pack, which doubles the current rate of tax. BAP notes that cigarette tax revenues in FY13 totaled just over $86.8M. However, the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $81.8M of revenues.

Equity Assessment Fee for NPMs (all versions):
The proposals create an Equity Assessment Fee of $0.55 per pack for the sale of Non-Participating Manufacturer cigarettes. The DOR may have an estimate of the revenue that may be generated.

Rolling Taxes (all versions, v. 96&99 match, and v. 97&98 match).
The proposals stipulate that any operator of a machine that allows any person to process tobacco into a roll or tube, or that provides access to such machinery, is a manufacturer. This may increase revenues, to the extent that sellers of rolling services remit taxes based on stamped products, instead of paying the "other tobacco products" taxes they may currently be paying.

Income Tax Reduction Factor (all versions):
The proposals require the existing rate of the individual income tax to be reduced by a "reduction factor." There are several marginal income tax rates in statute; BAP assumes this proposal refers to the top marginal rate in effect. The "reduction factor" means the percentage, rounded to the nearest tenth, but not less than 0.1%, sufficient to reduce collections by an amount equal to the tobacco taxes collected above. Based on 2011 Tax Year data, BAP estimates each 0.1% reduction may reduce revenues by $69M or more, depending on the rate in effect. Thus, the "reduction factor" may be rounded up to as much as 0.3%, for a reduction of at least $207M. Therefore, it is possible the reduction in income taxes may exceed the new tobacco revenues.

The reduction factor is be based on the new tobacco revenues collected in "any state fiscal year," as described in proposed subsection 27(a). Further, the proposed subsection 27(b) requires the income tax rate to be "permanently reduced" effective the immediately ensuing tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if the collection of tobacco taxes remains stable or decreases, or if

[2] http://www.convertunits.com/from/fluid+ounces/to/ml

income taxes declines because of economic conditions. This situation is further implied in proposed subsection 27(c), which requires the elimination of the income tax if the existing rate is 0.1 percent or less. It might follow that this proposal eliminates the income tax in twenty to sixty years, so long as any of the proposed tobacco revenues continue to be collected, eliminating $6 billion in revenue based on current collections.

Other Comments:

The reduction in income tax rates will reduce general revenues. However, it is unclear from this proposal if the new tobacco revenues will be deposited into general revenue or other dedicated funds.

Any reduction in the number of tobacco products sold may also reduce sales taxes. This would further reduce general revenues, as well as those for schools and other dedicated funds.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has zero fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city.

Officials from the **City of Kansas City** indicated this initiative petition would have no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated as increase in cigarette taxes could negatively impact revenues should customers find it less expensive to hop over to Kansas and purchase cigarettes there.

As of now, the tax on "vapor products" would have no impact on city finances one way or another. Should the city ever enact a personal income tax, the proposed reduction factor could negatively impact revenues with no corresponding revenues from the new special assessment tax to replace them.

Officials from the **Hannibal 60 School District** indicated it is their belief that, if passed, this initiative petition would have a negative impact on Elementary and Secondary Education. The permanent reduction of taxes could negatively impact education for many years to come.

Officials from **University of Missouri** indicated the fiscal impact on their university would be tax neutral in that additional revenues generated will be used to reduce the individual income tax.

Officials from the **University of Central Missouri** indicated they estimate no fiscal impact from this initiative petition.

Officials from **Northwest Missouri State University** indicated no impact.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, St. Louis Community College, Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Southeast Missouri State University**, and **Truman State University.**

Fiscal Note Summary

Taxes and fees collected annually under the proposal are used to calculate permanent reductions to the individual income tax rate. This process over several decades could eliminate the individual income tax, which would be approximately $6 billion in annual revenue based on current collections. Whether the proposal will be revenue neutral cannot be determined.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-099)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article X. (Received December 23, 2013)

Date

January 13, 2014

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

Section 26
In addition to all other taxes imposed on tobacco products, an additional special assessment of $0.17 per package of 20 cigarettes shall be paid by the wholesaler. The proposal also imposes a new special assessment in the amount of $0.034 on the sale of every vapor product unit. In addition, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale of non-participating manufacturer cigarettes at the rate of $0.55 per package of 20 cigarettes. We defer to DOR in regard to collection amounts resulting from the assessments and fees.

Section 27
The individual income tax is reduced per "reduction factor" (i.e. the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected from the fees or assessments imposed). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year. If the existing rate of the individual income tax is one tenth of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

Summary
All revenues generated shall be used to reduce the individual income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the proposal appears to address the reduction and\or permanent elimination of the individual income tax rate. It does not appear to allow for an increase or adjustment to the individual income tax rate when the collection of assessments and fees are insufficient to cover the reduction factor in any previous year. This could ultimately lead to a situation where there are minimal taxes collected from individual income taxes and minimal collections from the assessments and fees created here, such that state revenues could be significantly diminished. This would negatively impact the state school foundation formula.

Officials from the **Department of Higher Education** indicated this proposal would not result in any costs or savings for their department. Although the petition would levy new taxes, it appears the adjustment to other taxes would result in a zero total impact. In any

regard, the potential change in revenue is unknown and would not constitute a savings to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased operating costs for the department will be $258,724 for fiscal year 2015, $206,774 for fiscal year 2016, and $208,925 for fiscal year 2017.

The IT portion of this fiscal impact is estimated with a level of effort valued at $55,037. This value is based on 2,016 FTE hours.

This amendment may result in decrease in Total State Revenue. While the increase due to the $0.034 tax on vapor product units is unknown, the $0.17 assessment fee on all cigarette packages will increase revenues by $88.5 million the first year the amendment goes into effect. The $0.55 assessment fee on all non-participating manufacturer cigarettes will result in an increase of $71.2 million. This increase will result in a reduction in the individual income tax rate of 0.3 percent, decreasing general revenue by an estimated $206.3 million. The Department assumes that the assessments charged to vapor unit products and non-participating manufacturer cigarette packages will be deposited into the General Revenue fund, resulting in a net loss of $46.6 million dollars to general revenue.

The increase in assessments on vapor products and cigarettes increases state revenues. But, if the amendment permanently reduces individual income based on the increased assessments and then vapor products and cigarette sales decrease, this may lead to a decrease in state revenues.

Section 26
This version of the petition adds an additional $0.17 per pack special assessment on cigarettes purchased after the effective date of this amendment. This section also proposes a new assessment of $0.034 on vapor product units, and an additional $0.55 assessment on all non-participating manufacturer cigarettes. The revenue generated from these assessments reduces the individual income tax.

In calendar year 2012, 536.5 million packages of cigarettes were reported as being stamped for sale in the state of Missouri. The $0.17 assessment fee will increase revenues by an estimated $88.5 million, assuming the wholesalers receive the 3 percent discount established in Chapter 149, RSMo. The department has no information on the number of vapor product units sold in the state. OA-BP may be able to provide more information on the impact of this assessment.

In calendar year 2012, 133.4 million non-participating manufacturer cigarette packages were sold. The $0.55 assessment on all will increase revenues by $71.2 million dollars, assuming wholesalers receive the 3 percent discount.

If revenues are increased due to these assessments, the individual income tax rate will be reduced to 5.7 percent, resulting in a loss to general revenue of $206.3 million dollars the first year the rate is reduced.

In addition to the above assessments, the petition makes any person that, for commercial purposes, operates or maintains a machine that allows persons to process a cigarette a manufacturer. The resultant product from this process is considered a cigarette.

Section 27
This section permanently reduces individual income tax by the amount collected by the state from the assessments imposed in Section 26.

Administrative Impact:

Personal Tax:
Section 27
Personal Tax requires programming support and forms changes. Additionally, one (1) Revenue Processing Technician I will be required to process correspondence.

Collections & Tax Assistance (CATA):
Based on Section 27(b), CATA anticipates additional customer contacts due to the tax rate change and adjustment notices. CATA requires two (2) Tax Collection Technicians I for additional contacts on the non-delinquent and delinquent tax lines and one (1) Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and licenses.

Excise Tax:
Section 26(b)
Depending on who collects the tax, either 250 licensed wholesalers or approximately 4,500 retailers need to be notified of the provisions of this amendment. New reporting forms would need to be developed and a program would be needed to track the information.

Excise Tax requires one (1) Revenue Processing Technician I for every 3,000 returns.

Section 26(c)
The department assumes that all revenues collected would go to the general revenue fund. This would require changes to the cashiering functions and to SAM II entry.

Section 26(e)
This section requires a Constitutional Amendment for any future increase to the tax, license, fee or special assessment on cigarettes or tobacco products.

Section 26(g)
New reporting forms would need to be developed, 120 cigarette wholesalers would need to be notified, the Peach Tree Accounting System would require updating to allow for the tax rate and changes would need to be made to cashiering functions and to SAM II entry.

ITSD-DOR:
Individual: Tax rate reduction – 504 hours
Excise: New Vapor Product Excise Tax system – 1008 hours
New assessment on non-participating manufacturer cigarettes – 504 hours
Total: 2,016 FTE Hours

Comments:

Section 26
Although it is not stated within this amendment, the department assumes that the assessments collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Currently, the department collects other tobacco products tax on the manufacturer's invoice price of a product. The petition bases special assessment on vapor product units, which are defined as .05 fluid ounces of specified material.

Internet research indicates most material containing nicotine is measured in milliliters (ml) not ounces. Therefore, conversion will be needed to determine the special assessment amount based upon ounces. Additionally electronic cigarette kits contain cartridges containing small amounts of fluid (usually somewhere between 3 to 7 drops). This may be difficult to calculate the amount due.

It is also unclear if the vapor product unit must contain at least .05 ounces. It is unclear if a kit that contains two cartridges that hold less than .05 ounces is still subject to assessment. The department assumes that the assessment can be based upon a fractional part of .05 ounces. The department also assumes that if a product contains 30 ml then that would be converted to ounces and divided by .05 to determine the number of "Vapor Product Units" subject to assessment.

The language is unclear as to who would be responsible for remitting the special assessment on vapor product units, the wholesaler or the retailer.

If the FDA regulates these products under Chapter V of the Food, Drug and Cosmetics Act, they would no longer be subject to the special assessment.

It is unclear if the person responsible for collecting the special assessment would need to be licensed or not. If licensing of retailers is required, additional personnel will be needed. Additionally, if licensing is required, it is unclear if the requirements in Chapter 149, which impose a yearly fee and requiring submission of a bonding instrument, apply.

There does not appear to be any penalty provisions for non-compliance. It is unclear if the person remitting the tax will be granted any collection allowances. There are no refund provisions. The legislature is not authorized to enact any implementing legislation.

The department assumes the effective date of this legislation would be upon certification of the election results by the Secretary of State. This would not allow sufficient time to make all the necessary form changes, programming changes and notifications. It is recommended that the effective date be changed to July 1, 2015.

Current cigarette taxes are imposed upon the consumer. This legislation appears to impose the tax on the wholesaler, making the assessment fee subject to sales tax. This may be confusing to retailers, as they currently do not charge sales tax on the state cigarette tax.

As this legislation requires that the assessment be collected in the same manner as other cigarette tax, this would require the design and purchase of new cigarette stamps to be used only on non-participating manufacturer cigarettes. Because of the special assessment in this section, an additional series of stamps would have to be designed and purchased. Requiring separate stamps would put a burden on the wholesaler.

The department budgets for and purchases all cigarette stamps for the fiscal year at one time. The implementation of a new tax at a time other than the beginning of a fiscal year could result in inventory of stamps that will be obsolete and would have to be destroyed. Additionally there may not be sufficient funds in the budget to allow the purchase of the new stamps.

The department assumes that the compensation allowance of 3 percent provided for in Chapter 149.021 RSMo would apply to the special assessment fee as the fee is to be

collected in the same way as other cigarette taxes. The department also assumes that this would allow for the credit or refund on returned stamps.

The department assumes that any use of rolling machines in a commercial setting under Section 26(g), which would include private or social clubs, will be considered manufacturing cigarettes.

Section 27
This section allows for the individual income tax to be permanently reduced. However it does not provide for any increase if in future years the revenues for the special assessments imposed in Section 26 decreases. It is also unclear if the rate reduction occurs if the assessment amounts collected remain the same from year to year. The language is also vague as to who is responsible for determining whether the decrease is reoccurring.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to their department. Since the budget of any state agency is dependent upon the appropriations process, they cannot predict whether their department might be affected if this proposal were to result in a change in the total amount of general revenue available to fund state government.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency as a result of the passage of this initiative petition.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact from this initiative petition.

Officials from the **Office of Administration** indicated:

These proposals create, upon voter approval, additional taxes on various tobacco products.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:
<u>Vapor Product Units (all versions):</u>
The proposals create an additional tax of $0.034 levied on each "Vapor Product Unit" (VPU), defined as 0.05 fl. oz. of nicotine product.

- According to a recent analysis by Wells Fargo Securities,[1] national sales of e-cigarettes will total $1.7 billion in 2013.
- BAP assumes 2% of this figure represents sales in MO, and of this, 90% is sales of VPUs, or about $32M.
- BAP assumes these sales are in the form of "cartridges" that retail for $2 each, or 16M cartridges. Also, each cartridge contains 1.5 mL of liquid, for a total of 24M mL. However, there are numerous e-cigarette products, with various amounts of fluid, offered at an array of prices for consumers to choose from.
- BAP notes that 24M mL is about 0.812M fl. Oz,[2] which implies about 16.231M VPUs are sold in MO.
- At $0.034 per VPU, this would generate about $0.552M in additional revenues.

Cigarette Tax (versions 97, 98, 99):
The proposals create an additional cigarette tax of $0.17 per pack, which doubles the current rate of tax. BAP notes that cigarette tax revenues in FY13 totaled just over $86.8M. However, the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $81.8M of revenues.

Equity Assessment Fee for NPMs (all versions):
The proposals create an Equity Assessment Fee of $0.55 per pack for the sale of Non-Participating Manufacturer cigarettes. The DOR may have an estimate of the revenue that may be generated.

Rolling Taxes (all versions, v. 96&99 match, and v. 97&98 match).
The proposals stipulate that any operator of a machine that allows any person to process tobacco into a roll or tube, or that provides access to such machinery, is a manufacturer. This may increase revenues, to the extent that sellers of rolling services remit taxes based on stamped products, instead of paying the "other tobacco products" taxes they may currently be paying.

Income Tax Reduction Factor (all versions):
The proposals require the existing rate of the individual income tax to be reduced by a "reduction factor." There are several marginal income tax rates in statute; BAP assumes this proposal refers to the top marginal rate in effect. The "reduction factor" means the percentage, rounded to the nearest tenth, but not less than 0.1%, sufficient to reduce collections by an amount equal to the tobacco taxes collected above. Based on 2011 Tax Year data, BAP estimates each 0.1% reduction may reduce revenues by $69M or more, depending on the rate in effect. Thus, the "reduction factor" may be rounded up to as much as 0.3%, for a reduction of at least $207M. Therefore, it is possible the reduction in income taxes may exceed the new tobacco revenues.

The reduction factor is be based on the new tobacco revenues collected in "any state fiscal year," as described in proposed subsection 27(a). Further, the proposed subsection

[1] http://www.cnbc.com/id/100991511#_gus
[2] http://www.convertunits.com/from/fluid+ounces/to/ml

27(b) requires the income tax rate to be "permanently reduced" effective the immediately ensuing tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if the collection of tobacco taxes remains stable or decreases, or if income taxes declines because of economic conditions. This situation is further implied in proposed subsection 27(c), which requires the elimination of the income tax if the existing rate is 0.1 percent or less. It might follow that this proposal eliminates the income tax in twenty to sixty years, so long as any of the proposed tobacco revenues continue to be collected, eliminating $6 billion in revenue based on current collections.

Other Comments:

The reduction in income tax rates will reduce general revenues. However, it is unclear from this proposal if the new tobacco revenues will be deposited into general revenue or other dedicated funds.

Any reduction in the number of tobacco products sold may also reduce sales taxes. This would further reduce general revenues, as well as those for schools and other dedicated funds.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has zero fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city.

Officials from the **City of Kansas City** indicated this initiative petition would have no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated as increase in cigarette taxes could negatively impact revenues should customers find it less expensive to hop over to Kansas and purchase cigarettes there.

As of now, the tax on "vapor products" would have no impact on city finances one way or another. Should the city ever enact a personal income tax, the proposed reduction factor could negatively impact revenues with no corresponding revenues from the new special assessment tax to replace them.

Officials from the **Hannibal 60 School District** indicated it is their belief that, if passed, this initiative petition would have a negative impact on Elementary and Secondary Education. The permanent reduction of taxes could negatively impact education for many years to come.

Officials from **University of Missouri** indicated the fiscal impact on their university would be tax neutral in that additional revenues generated will be used to reduce the individual income tax.

Officials from the **University of Central Missouri** indicated they estimate no fiscal impact from this initiative petition.

Officials from **Northwest Missouri State University** indicated no impact.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Public Safety, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, St. Louis Community College, Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Southeast Missouri State University**, and **Truman State University.**

Fiscal Note Summary

Taxes and fees collected annually under the proposal are used to calculate permanent reductions to the individual income tax rate. This process over several decades could eliminate the individual income tax, which would be approximately $6 billion in annual revenue based on current collections. Whether the proposal will be revenue neutral cannot be determined.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-100)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 23, 2013)

Date

January 13, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will increase state revenues by an unknown amount.

Officials from the **Department of Public Safety** indicated:

Division of Alcohol and Tobacco Control (ATC)

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112.5 million in excise tax collections if tax rates are the minimum 15%. ATC

also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600 producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 4 marijuana plants and 8 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax between 15% and 30% of the purchase price. This excise tax will not be a part of total state revenue and related expenditures not an expenditure of state government.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture,

produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 4 marijuana plants and 8 ounces of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Missouri State Highway Patrol

Costs would increase by $204,521 in FY 2015, $247,929 in FY 2016, and $250,457 in FY 2017.

The Criminal Justice Information Services Division states that there are currently 216,264 arrest charges in the Central Repository and an additional 28,000 arrests in TAS/DWITS that qualify for expungement under this amendment. With no specific statutory reference into how these expungements would be handled or the process by which they would be expunged, it is difficult, at best, to estimate the amount of FTE's required by the CJIS Division to carry out the expungements. The current expungement process, pursuant to Chapter 610, takes approximately 90 minutes to process. One FTE can handle 1,237 expungements per year. Conservatively, at least five FTE's would be required to initially handle the expungments created by this amendment based on no clear expungement process. Clearly, if a large number of these expungements were to be granted with even 5 FTE's, the backlog would compound greatly to the point it may take several years to catch up.

1 FTE = 1,856 hours (average work hours per year) x 60 minutes per hour = 111,360 minutes per year.

The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 90 minutes. Therefore, one FTE can handle 1,237 expungements per year = 111,360 / 90.

These FTE (Criminal History Technicians) would be necessary to process all expungement requests, review criminal history records, contact any agency associated with the arrests or convictions, and collect the necessary data for the court orders.

Based on the average yearly salary and benefit rate per FTE at $48,435 and the ability of that employee to process 1,237 expungements per year, the cost alone per expungement is = $48,435 \ 1237 = $39.15. It is suggested that a $50.00 fee, similar to the criminal history background check fee, be implemented for the cost of researching and reviewing the criminal histories, as well as contacting of the various agencies associated with the arrests. In researching other states with similar expungement requirements, they all charge a fee to offset the cost of the time required to process the expungements. Their fees ranged from $50 to $450 per petition per arrest date.

These FTE will most likely be 2nd and 3rd shift employees so they would not require any equipment. However, there would be recurring costs of $650 per year per FTE for office supplies and phone charges. If any FTE were placed on the 1st shift, standard equipment would be required at a one-time cost of $3,566 per FTE.

5 Criminal History Technicians ($1,102.50 x 24)	$132,300
Office Equipment/HW/SW	$3,566

RECURRING COSTS

Phone Charges per FTE	$350
Office Supplies per FTE	$300

Comments:

In 1924, the United States Justice Department FBI began building a national system of criminal records for the protection of citizens through the detection and apprehension of criminals. The Omnibus Crime Control and Safe Streets Act of 1968 established minimum requirements for the management of criminal record systems. The Kennedy Amendment in the Crime Control Act of 1973 requires all criminal history information collected, maintained and/or disseminated by state and local agencies to be complete, secure and available for review and challenged by record subjects. It further stipulates that information must be used only for law enforcement and other specifically authorized purposes. The Anti-Drug Abuse Act of 1988 requires a system for the immediate and accurate identification of felons who attempt to purchase firearms. The Brady Handgun Violence Prevention Act of 1993, the National Child Prevention Act of 1993, the National Stalker and Domestic Violence Reduction Program of the Violence Against Women Act, the National Instant Criminal Background Check System/Crime Identification Technology Act of 1998, the NICS Improvement Amendment Act, the Jacob Wetterling Crimes Against Children Act, and the Sexually Violent Offender Registration Act (Megan's Law). These supporting bills are all programs that are dependent upon a complete, accurate and timely criminal history database in the state.

This proposed legislation would also impact the determination of qualified individuals relating to positions of public trust (i.e., persons caring for children, the elderly or the disabled). It would adversely impact the criminal justice system and the ability for the criminal justice system to adequately protect the citizens of Missouri from convicted criminals.

Additionally, RMSo 610.122 and 610.123 address the requirements and processes for expungements. This bill does not address these state statutes and would conflict with these laws. Currently, no record can be expunged if the individual of the arrest has prior or subsequent misdemeanor or felony convictions, the subject received a suspended imposition of sentence for the arrest, or the subject received a conviction.

Certain misdemeanor and municipal offenses (i.e., drug offenses under Chapter 195) can be enhanced if it is a second or third offense. It would be difficult to enhance the offense per 558.016 if previous convictions were expunged.

The following language is proposed to provide for the collection of a fee to offset the costs of the expungement:

43.530. 1. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than nine dollars per request for criminal history record information not based on a fingerprint search. In each year

beginning on or after January 1, 2010, the superintendent may increase the fee paid by requesting entities by an amount not to exceed one dollar per year, however, under no circumstance shall the fee paid by requesting entities exceed fifteen dollars per request.

2. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than twenty dollars per request for criminal history record information based on a fingerprint search, unless the request is required under the provisions of subdivision (6) of section 210.481, section 210.487, or section 571.101, in which case the fee shall be fourteen dollars.

3. A request made under subsections 1 and 2 of this section shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. The highway patrol may establish procedures for receiving requests for criminal history record information for classification and search for fingerprints, from courts and other entities, and for the payment of such requests. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080 to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

4. For all petitions for expungement under the provisions of Chapter 610 and Section 577.054, excluding Section 610.122, the applicant shall pay a fee of fifty dollars per arrest date listed on the petition. Each petition shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol.

Article I, Section 35(a) 14 allows for all marijuana-related arrests, convictions, etc., no matter the class of crime, to be expunged from an individual's record. However, there is no statutory reference to Chapter 610 to provide a method by which the expungement process will occur.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Department of Transportation** indicated they assume no fiscal impact on their department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-100 and 14-101 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-102 at twenty-five percent.
    - Petitions 14-100 and 14-101 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-101 does not permit expungement of marijuana offenses no longer illegal under this act.

- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.

- Forbid any individual or property owner from prohibiting marijuana within their property.
- Require a person to violate or exempt them from enforcement of federal laws.
- Permit operation of any means of transportation by anyone impaired by marijuana.
- Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact

The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties
    e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the State Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division

charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	

Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund

Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the

purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact on their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.8 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-101)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 23, 2013)

Date

January 13, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will increase state revenues by an unknown amount.

Officials from the **Department of Public Safety** indicated:

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $142,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $112.5 million in excise tax collections if tax rates are the minimum 15%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600

producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It removes the language dealing with the definition for "Expungeable marijuana offense." It also sets out household exemption limits of 8 ounces of usable marijuana, 12 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax between 15% and 30% of the purchase price. This excise tax will not be a part of total state revenue and related expenditures not an expenditure of state government.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises.

Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 8 ounces of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, regarding convictions of marijuana offenses being expungeable was removed and renumbered and now this section clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)15, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 16 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 17, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the

department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Department of Transportation** indicated they assume no fiscal impact on their department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-100 and 14-101 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-102 at twenty-five percent.
    - Petitions 14-100 and 14-101 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.

- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-101 does not permit expungement of marijuana offenses no longer illegal under this act.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact

The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties
    e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the State Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund

Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	

Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290,

RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.6 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $142 million. The fiscal impact to local governments is unknown.

SSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-102)

Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 23, 2013)

Date

January 13, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated there will be no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. They noted; while a portion of the tax revenue generated by the proposal would potentially increase the funds available for higher education, including state scholarship programs administered by their department, the potential additional revenue is unknown and does not constitute a savings for their department.

Officials from the **Department of Health and Senior Services** indicated this proposal would have no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. The department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if department is not allowed to test our staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for the department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated there will be no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this proposal will have no fiscal impact for the department, but it will increase state revenues by an unknown amount.

Officials from the **Department of Public Safety** indicated:

Division of Alcohol and Tobacco Control (ATC)

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $217,500,000 in FY 2016 and FY 2017.

The Division of Alcohol and Tobacco Control (ATC) will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the state of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $187,500 million in excise tax collections if tax rates are the minimum 25%.

ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600 producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 35(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 35(a)2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 35(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 35(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 6 marijuana plants and 12 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 72 ounces of marijuana products in liquid form.

Section 35(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

35(a)6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; the operation of a vehicle while using or under the influence; usage of marijuana in a public place; purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax of 25% of the purchase price.

Section 35(a)7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises.

Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 25%; public elementary and secondary education – 25%; mental health and substance abuse programs – 20%; cities and counties – 15%; and for public higher education for scholarships to attend such institutions – 15%.

Section 35(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 6 marijuana plants and 12 oz of usable marijuana, 16 oz of marijuana in solid form, 72 oz in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses issued to no less than one marijuana retailer per 2,500 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 35(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage.

Section 35(a) 10, prevents a licensed doctor from being subjected to a criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 35(a) 11, directs and authorizes ATC to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 35(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 35(a) 14, sets out the provisions for expunging marijuana offenses.

Section 35(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 35(a)16, provides that the marijuana laws will have no affect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 35(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 35(a) 18, provides for most of the provisions to become effective on January 1, 2015, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2015.

The division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be between $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

Missouri State Highway Patrol

Costs would increase by $204,521 in FY 2015, $247,929 in FY 2016, and $250,457 in FY 2017.

The Criminal Justice Information Services Division states that there are currently 216,264 arrest charges in the Central Repository and an additional 28,000 arrests in TAS/DWITS that qualify for expungement under this amendment. With no specific statutory reference into how these expungements would be handled or the process by which they would be expunged, it is difficult, at best, to estimate the amount of FTE's required by the CJIS Division to carry out the expungements. The current expungement process, pursuant to Chapter 610, takes approximately 90 minutes to process. One FTE can handle 1,237 expungements per year. Conservatively, at least five FTE's would be required to initially handle the expungments created by this amendment based on no clear expungement process. Clearly, if a large number of these expungements were to be granted with even 5 FTE's, the backlog would compound greatly to the point it may take several years to catch up.

1 FTE = 1,856 hours (average work hours per year) x 60 minutes per hour = 111,360 minutes per year.

The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 90 minutes. Therefore, one FTE can handle 1,237 expungements per year = 111,360 / 90.

These FTE (Criminal History Technicians) would be necessary to process all expungement requests, review criminal history records, contact any agency associated with the arrests or convictions, and collect the necessary data for the court orders.

Based on the average yearly salary and benefit rate per FTE at $48,435 and the ability of that employee to process 1,237 expungements per year, the cost alone per expungement is = $48,435 \ 1237 = $39.15. It is suggested that a $50.00 fee, similar to the criminal history background check fee, be implemented for the cost of researching and reviewing the criminal histories, as well as contacting of the various agencies associated with the arrests. In researching other states with similar expungement requirements, they all charge a fee to offset the cost of the time required to process the expungements. Their fees ranged from $50 to $450 per petition per arrest date.

These FTE will most likely be 2nd and 3rd shift employees so they would not require any equipment. However, there would be recurring costs of $650 per year per FTE for office supplies and phone charges. If any FTE were placed on the 1st shift, standard equipment would be required at a one-time cost of $3,566 per FTE.

5 Criminal History Technicians ($1,102.50 x 24)	$132,300
Office Equipment/HW/SW	$3,566

RECURRING COSTS

Phone Charges per FTE	$350
Office Supplies per FTE	$300

Comments

In 1924, the United States Justice Department FBI began building a national system of criminal records for the protection of citizens through the detection and apprehension of criminals. The Omnibus Crime Control and Safe Streets Act of 1968 established minimum requirements for the management of criminal record systems. The Kennedy Amendment in the Crime Control Act of 1973 requires all criminal history information collected, maintained and/or disseminated by state and local agencies to be complete, secure and available for review and challenged by record subjects. It further stipulates that information must be used only for law enforcement and other specifically authorized purposes. The Anti-Drug Abuse Act of 1988 requires a system for the immediate and accurate identification of felons who attempt to purchase firearms. The Brady Handgun Violence Prevention Act of 1993, the National Child Prevention Act of 1993, the National Stalker and Domestic Violence Reduction Program of the Violence Against Women Act, the National Instant Criminal Background Check System/Crime Identification Technology Act of 1998, the NICS Improvement Amendment Act, the Jacob Wetterling Crimes Against Children Act, and the Sexually Violent Offender Registration Act (Megan's Law). These supporting bills are all programs that are dependent upon a complete, accurate and timely criminal history database in the state.

This proposed legislation would also impact the determination of qualified individuals relating to positions of public trust (i.e., persons caring for children, the elderly or the disabled). It would adversely impact the criminal justice system and the ability for the criminal justice system to adequately protect the citizens of Missouri from convicted criminals.

Additionally, RMSo 610.122 and 610.123 address the requirements and processes for expungements. This bill does not address these state statutes and would conflict with these laws. Currently, no record can be expunged if the individual of the arrest has prior or subsequent misdemeanor or felony convictions, the subject received a suspended imposition of sentence for the arrest, or the subject received a conviction.

Certain misdemeanor and municipal offenses (i.e., drug offenses under Chapter 195) can be enhanced if it is a second or third offense. It would be difficult to enhance the offense per 558.016 if previous convictions were expunged.

The following language is proposed to provide for the collection of a fee to offset the costs of the expungement:

43.530. 1. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than nine dollars per request for criminal history record information not based on a fingerprint search. In each year

beginning on or after January 1, 2010, the superintendent may increase the fee paid by requesting entities by an amount not to exceed one dollar per year, however, under no circumstance shall the fee paid by requesting entities exceed fifteen dollars per request.

2. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than twenty dollars per request for criminal history record information based on a fingerprint search, unless the request is required under the provisions of subdivision (6) of section 210.481, section 210.487, or section 571.101, in which case the fee shall be fourteen dollars.

3. A request made under subsections 1 and 2 of this section shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. The highway patrol may establish procedures for receiving requests for criminal history record information for classification and search for fingerprints, from courts and other entities, and for the payment of such requests. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080 to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

4. For all petitions for expungement under the provisions of Chapter 610 and Section 577.054, excluding Section 610.122, the applicant shall pay a fee of fifty dollars per arrest date listed on the petition. Each petition shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol.

Article I, Section 35(a) 14 allows for all marijuana-related arrests, convictions, etc., no matter the class of crime, to be expunged from an individual's record. However, there is no statutory reference to Chapter 610 to provide a method by which the expungement process will occur.

Officials from the **Department of Social Services** indicated through the excise tax imposed by these amendments, there is the potential to increase state revenues; however, there is no specific provision that any of that money would be appropriated to the department. Although some portion of the revenue is to be allocated for mental health and substance abuse programs, which agency or agencies would benefit would be subjected to the appropriations process. Therefore, no fiscal impact to the department is anticipated.

Officials from the **Governor's Office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **House of Representatives** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **Department of Conservation** indicated there will be no adverse fiscal impact on the department.

Officials from the **Department of Transportation** indicated they assume no fiscal impact on their department.

Officials from the **Office of Administration** indicated:

These initiative petitions create Article I, Section 35(a) in the Missouri Constitutions and changes or repeals certain sections of Articles I thru X and XII. Below summarizes the petitions and distinguishes the difference between the various versions. These petitions:

- Legalize the production, sale, distribution, and consumption of marijuana and hemp.
- Legalize the possession of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalize the cultivation of marijuana for medical needs as recommended by a physician.
- Legalize the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax on the fair market sale of marijuana and industrial hemp produced in the state.
    - Petitions 14-100 and 14-101 set the tax rate at not less than fifteen percent, but not more than thirty percent of the purchase price.
    - Petitions 14-102 at twenty-five percent.
    - Petitions 14-100 and 14-101 restrict the expenditures from this additional revenue to not be an "expense of the state government."
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act.
    - Petitions 14-101 does not permit expungement of marijuana offenses no longer illegal under this act.
- Do not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Require an employer to retain an employee impaired by the use of marijuana.

- Forbid any individual or property owner from prohibiting marijuana within their property.
- Require a person to violate or exempt them from enforcement of federal laws.
- Permit operation of any means of transportation by anyone impaired by marijuana.
- Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact

The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. First all funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties
    e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale or marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the State Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division

charges disposed by guilty outcome. We are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	

Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund

Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated there will be no fiscal impact on their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the

purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated this initiative petition will have no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be any fiscal impact to their city resulting from this petition.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for the city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated this petition could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Natural Resources, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.8 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $217 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-104)

Subject

Initiative petition from Steven Reed regarding a proposed constitutional amendment to Article IV. (Received December 24, 2013)

Date

January 14, 2014

Description

This proposal would amend Article IV of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated they assume no impact for their department and defer to the Department of Revenue for analysis of the proposed sales tax increase to general revenue.

Officials from the **Department of Higher Education** indicated they estimate this proposal would not result in any cost or savings for their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this proposal would increase costs for their department by $139,268 for fiscal year 2015 and increase state revenue by $36,450,000 in fiscal year 2015, and $36,450,000 for fiscal year 2016.

This amendment imposes an additional sales tax of 1/10th of one percent to fund "Technology Parks" in Ozark, Billings, Joplin, Nixa, Republic, Willard, Springfield, or any other city that requests funding.

The IT portion of the fiscal impact is estimated with a level of effort valued at $9,630. The value of the level of effort is calculated on 356 FTE hours.

The amendment increases total state revenue by approximately $73 million.

The amendment imposes a 1/10th of one percent sales tax upon sellers for selling tangible personal property or taxable services for a period of one year. The Department of Economic Development receives revenue from the tax to promote and develop

Technology Parks in Ozark, Billings, Joplin, Nixa, Republic, Willard, Springfield, or any other city that requests funding. In addition to the tax, the amendment sets up a foundation for contributions from labor leaders, business leaders, educational leaders, and the public at large. The tax expires after one year of collections.

Based on fiscal year 2013 collections, a 1/10th of one percent increase is to approximately $72.9 million. The increased revenue would be divided between fiscal years 2015 and 2016.

Administrative Impact

Sales Tax:
The department needs programming to impose the new state rate. Additionally, we need to send rate change letters to all businesses registered to collect sales tax.

Postage Costs: As of August 2012, a report generated by Information Technology indicated there were 140,911 businesses registered to collect sales tax. Based on the number of businesses, the department requires $129,638 for mailings to notify these businesses when the increased rate goes into effect and when the rate is reduced at the end of the effective year. (281,822 x $0.46 = $129,638) However, the postage rate is expected to increase in January, so the cost of sending these letters may increase after that time.

ITSD-DOR:
Tax - Sales Tax
Section 36(1) New 1/10th of one percent state sales and use tax for technology parks.

Money must be put on separate line cashiering worksheet – 188 hrs
New line item on Sales Tax Worksheet Application – 168 hrs

Comments:

Section 36(a)
The amendment states, "…cities of Ozark, Billings, Joplin, Nixa, Republic, Willard, Springfield and any other legal city will be able to submit request for funding."

The amendment does not include a definition for what constitutes a "legal city." The department recommends defining this term.

The department recommends defining "Technology Parks."

The sales and use tax established in this section is only imposed on sellers for the privilege of selling tangible personal property or rendering taxable services at retail or for the privilege of storing, using, or consuming tangible personal property in this state. Motor vehicles, trailers, boats, and outboard motors are excluded from the sales tax imposed on sellers; rather they are subject to a titling tax imposed on individuals.

Therefore, the increased sales and use tax is not applicable to the sale of motor vehicles, trailers, boats, or outboard motors.

There is no effective date expressed within the amendment. Therefore, this amendment will become effective December 5, 2014, if approved by voters in November, 2014. This will require retailers to charge two different tax rates in the same month. It also does not provide adequate time to notify all retailers of the rate change.

Officials from the **Department of Public Safety** indicated their department is not fiscally impacted by this initiative petition.

Officials from the **Department of Social Services** indicated there is no fiscal impact to their department because state purchases are generally exempt from the payment of sales tax. In addition, any funds raised by this sales tax are dedicated to a specific purpose and not available for any other governmental program.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact from this initiative petition.

Officials from the **Office of Administration** indicated a similar sales tax of 1%, collected for education purposes, generated $726.9 million in fiscal year 2013. This includes tax on food for home consumption, which is not exempted in this proposal. Therefore, an additional 0.1% tax would generate $72.7 million in one full year. This proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this proposed initiative petition results in zero impact to the their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million

historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be any fiscal impact to their city resulting from this petition.

Officials from the **City of Kansas City** indicated this initiative petition would have no direct fiscal impact on their city; however, it would have the following indirect fiscal impact: Any increase in the state sales tax rate from this initiative would be a disincentive to shop in Kansas City, Missouri. More consumers would shop online or in nearby Kansas stores. This would reduce Kansas City local sales tax revenues.

Officials from the **City of St. Joseph** indicated theoretically, the city could benefit from the sales tax were we to apply for, and receive, funds for a technology park. On the other hand, if the city had to spend $30,000-40,000 on an election to see if citizens think the city needs such a thing in order to have a good chance of receiving such funds, any benefit is reduced. If the city didn't get a proposal approved, the city would lose the money spent for the election.

The officials said they also question the statement that the tax revenues are for "southwest Missouri," but later appears to provide the opportunity to "any legal City."

They also had the following questions:

Would there be a cap to be given to any one city? Are administrative costs figured in?

Officials from **University of Missouri** indicated this initiative petition would have a positive fiscal impact on their university, particularly in the areas of research and economic development.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

This proposed constitutional amendment will impose a sales tax of one-tenth of one percent for one year. The additional revenues of approximately $73 million will be used for the promotion and development of Technology Parks in southwest Missouri. State governmental entities will have one-time increased operating costs of about $139,000.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-118)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article X. (Received January 31, 2014)

Date

February 20, 2014

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Marc Ellinger provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated an unknown fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

The individual income tax is reduced per "reduction factor" (i.e. the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected from the fees or assessments imposed). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

They defer to DOR in regard to collection amounts resulting from the assessments and/or fees imposed.

All revenues generated shall be used to reduce the individual income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the proposal appears to address the reduction and\or permanent elimination of the individual income tax rate. It does not appear to allow for an increase or adjustment to the individual income tax rate when the collection of assessments and/or fees are insufficient to cover the reduction factor in any previous year. This could ultimately lead to a situation where there are minimal taxes collected from individual income taxes and minimal collections from the assessments and/or fees created here, such that state revenues could be significantly diminished. This would negatively impact the state school foundation formula.

Officials from the **Department of Higher Education** indicated this proposal would not result in any costs or savings for their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased operating costs for the department will be $251,980 for fiscal year 2015, $206,774 for fiscal year 2016, and $208,925 for fiscal year 2017.

The IT portion of this fiscal impact is estimated with a level of effort valued at $41,278. This value is based on 1,512 FTE hours.

This amendment may result in a decrease in total state revenue. While the increase due to the $0.01 tax on vapor product units is unknown, the $0.55 assessment fee on all non-participating manufacturer cigarettes will result in an increase of $72.1 million. This increase will result in a reduction of the individual income tax rate to 5.8 percent, decreasing general revenue by an estimated $137.6 million. The department assumes that the assessments will be deposited into the General Revenue fund, resulting in a net loss of $65.5 million dollars to general revenue.

The increase in assessments on vapor products and cigarettes increases state revenues, but not enough to offset income tax losses. If the amendment permanently reduces individual income tax based on the increased assessments and then vapor products and cigarette sales decrease, this may lead to further reductions in state revenues.

SECTION 26
This section permanently reduces individual income tax by the amount collected by the state from the assessments imposed in Section 27.

Administrative Impact:
Personal Tax:
Personal Tax requires programming support and forms changes. Additionally, Personal Tax needs one (1) Revenue Processing Technician I to process correspondence.

Collections & Tax Assistance:
Based on section 26, Collections & Tax Assistance anticipates additional customer contacts due to the tax rate change and adjustment notices. Collections & Tax Assistance requires two (2) Tax Collection Technicians I for additional contacts on the non-delinquent and delinquent tax lines and one (1) Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and licenses.

ITSD-DOR:
Individual: Tax rate reduction – 504 hours

SECTION 27
This version of the petition adds an equity assessment fee on the purchase, storage, use, consumption, handling, distributions or wholesale sale of nonparticipating manufacturer cigarettes at a rate of $0.55 per pack. This section proposes a new assessment of $0.01 per .01 fluid ounce of vapor product material.

In addition to the above assessments, the petition requires that any person that provides cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers be considered a manufacturer.

ADMINISTRATIVE IMPACT:
Excise Tax:
Depending on who collects the tax, either 250 licensed wholesalers or approximately 4,500 retailers need to be notified of the provisions of this amendment. New reporting forms would need to be developed and a program would be needed to track the information.

Excise Tax requires one (1) Revenue Processing Technician I for every 3,000 returns.

The department assumes that all revenues collected would go to the general revenue fund. This would require changes to the cashiering functions and to SAM II entry.

This section requires a Constitutional Amendment for any future increase to the tax, license, fee or special assessment on cigarettes or tobacco products.

New reporting forms would need to be developed, 120 cigarette wholesalers would need to be notified and the Peach Tree Accounting System would require updating to allow for the tax rate.

Mailing costs to wholesalers and retailers:

Wholesalers:	120 x $0.555 =	$ 66.60
Retailers:	4500 x $0.555 =	$2,497.50
Total:		$2,564.10

ITSD-DOR:
Excise: New Vapor Product Excise Tax system – 1008 hours
New assessment on non-participating manufacturer cigarettes – 504 hours

Comments:

Section 26
This section allows for the individual income tax to be permanently reduced. However, it does not provide for any increase if in future years the revenues derived from the special

assessments imposed in Section 27 decrease. It is also unclear if the rate reduction occurs if the assessment amounts collected remain the same from year to year. The language is also vague as to who is responsible for determining whether the decrease is reoccurring.

Section 27
Although it is not stated within this amendment, the department assumes that the assessments collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Currently, the department collects other tobacco product's tax on the manufacturer's invoice price of a product. To collect the special assessment based upon a number of ounces provides special challenges for the department.

Internet research indicates most material containing nicotine is measured in milliliters (ml) not ounces. Therefore, conversion will be needed to determine the special assessment amount based upon ounces. Additionally, electronic cigarette kits contain cartridges containing small amounts of fluid (usually somewhere between 3 to 7 drops). This may be difficult to calculate the amount due.

It is also unclear if the vapor product unit must contain at least .05 ounces. It is unclear if a kit that contains two cartridges that hold less than .05 ounces is still subject to assessment. The department assumes that the assessment can be based upon a fractional part of .05 ounces. The department also assumes that if a product contains 30 ml then that would be converted to ounces and divided by .05 to determine the number of "Vapor Product Units" subject to assessment.

The language is unclear as to who would be responsible for remitting the special assessment fee, whether at the sale by the wholesaler to the retailer or at the sale by the retailer to the consumer.

If the FDA should ever regulate these products under Chapter V, they would no longer be subject to the special assessment.

It is unclear if the person responsible for collecting the special assessment would need to be licensed or not. If licensing of retailers is required, additional personnel will be needed. Additionally, if licensing is required, it is unclear if the requirements in Chapter 149 can be applied, which impose a yearly fee and requiring submission of a bonding instrument.

There does not appear to be any penalty provisions for non-compliance. It is unclear if the person remitting the tax will be granted any collection allowances. There are no refund provisions.

The department assumes the effective date of this legislation would be upon certification of the election results by the Secretary of State. This would not allow sufficient time to make all the necessary form changes, programming changes and notifications. It is

recommended that the effective date be changed to July 1, 2015. This will also reduce the burden on the wholesalers required to implement the assessment in the middle of the month.

Current cigarette taxes are imposed upon the consumer. This legislation appears to impose the tax on the wholesaler, making the assessment fee subject to sales tax. This may be confusing to retailers, as they currently do not charge sales tax on the state cigarette tax.

As this legislation requires that the assessment be collected in the same manner as other cigarette tax, this would require the design and purchase of new cigarette stamps to be used only on non-participating manufacturer cigarettes. Because of the special assessment in this section, an additional series of stamps would have to be designed and purchased. Although a separate stamp could be developed, in consultation with cigarette wholesalers, this would put an extreme burden on wholesalers to apply separate stamps to each pack of cigarettes.

The department budgets for and purchases all cigarette stamps for the fiscal year at one time. The implementation of a new tax at a time other than the beginning of a fiscal year could result in inventory of stamps that will be obsolete and would have to be destroyed. Additionally, there may not be sufficient funds in the budget to allow the purchase of the new stamps.

The department assumes that the compensation allowance of 3 percent provided for in Chapter 149.021 RSMo would apply to the special assessment fee, as the fee is to be collected in the same way as other cigarette taxes. The department also assumes that as this assessment is to be collected in the same manner as other cigarette taxes, this would allow for the credit or refund on returned stamps.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this initiative petition.

Officials from the **Department of Social Services** indicated since this initiative petition imposes a special assessment and provides for a reduction in the individual income tax, it has the potential to affect total state revenue. However, there is no direct fiscal impact to their department. Since the budget of any state agency is dependent upon the appropriations process, they cannot predict whether their department might be affected if this proposal were to result in a change in the total amount of general revenue available to fund state government.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

These proposals create, upon voter approval, additional taxes on various tobacco products.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

Vapor Product Units (all versions):
The proposals create an additional tax of $0.01 levied on each "Vapor Product Unit" (VPU), defined as 0.01 fl. oz. of nicotine product.

- According to a recent analysis by Wells Fargo Securities,[1] national sales of e-cigarettes will total $1.7 billion in 2013.
- BAP assumes 2% of this figure represents sales in MO, and of this, 90% is sales of VPUs, or about $32M.
- BAP assumes these sales are in the form of "cartridges" that retail for $2 each, or 16M cartridges. Also, each cartridge contains 1.5 mL of liquid, for a total of 24M mL. However, there are numerous e-cigarette products, with various amounts of fluid, offered at an array of prices for consumers to choose from.
- BAP notes that 24M mL is about 0.812M fl. oz.,[2] which implies about 81.15M VPUs are sold in MO.
- At $0.01 per VPU, this would generate about $0.8122M in additional revenues.

Cigarette Tax (versions 119 & 120):
The proposals create an additional cigarette tax of $0.17 per pack, which doubles the current rate of tax. BAP notes that cigarette tax revenues in FY13 totaled just over $86.8M. However, the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $81.8M of revenues.

Equity Assessment Fee for NPMs (versions 118 & 119):
The proposals create an Equity Assessment Fee of $0.55 per pack for the sale of Non-Participating Manufacturer cigarettes. The DOR may have an estimate of the revenue that may be generated.

Cigarette Mfg (all versions).
The proposals stipulate that any person that provides cigarette manufacturing services is deemed to be a manufacturer. This may increase revenues, to the extent that sellers of these services remit taxes based on stamped products, instead of paying any "other tobacco products" taxes they may currently be paying.

[1] http://www.cnbc.com/id/100991511#_gus
[2] http://www.convertunits.com/from/fluid+ounces/to/ml

Bonds for Non-Participating Mfgs (versions 120 & 121)
These proposals require Non-Participating Manufactures to post a bond to the state of Missouri. This will increase general and total state revenues by an unknown amount.

Income Tax Reduction Factor (all versions):
The proposals require the existing rate of the individual income tax to be reduced by a "reduction factor." There are several marginal income tax rates in statute; BAP assumes this proposal refers to the top marginal rate in effect. The "reduction factor" means the percentage, rounded to the nearest tenth, but not less than 0.1%, sufficient to reduce collections by an amount equal to the annual increase in the tobacco taxes collected above. Based on 2011 Tax Year data, BAP estimates each 0.1% reduction may reduce revenues by $69M or more, depending on the rate in effect. Thus, the "reduction factor" may be rounded up to as much as 0.3%, for a reduction of at least $207M, in the first year. In subsequent years, an increase in the proposed taxes of only $1 would lead to a reduction of $69M or more.

Further, the proposal requires the income tax rate to be "permanently reduced" effective the immediately ensuing tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if income taxes decline because of economic conditions. It might follow that this proposal eventually eliminates the income tax so long as any of the proposed tobacco revenues continue to be collected, and increase by any amount.

Other Comments:

The reduction in income tax rates will reduce general revenues. However, it is unclear from this proposal if the new tobacco revenues will be deposited into general revenue or other dedicated funds.

Any reduction in the number of tobacco products sold may also reduce sales taxes. This would further reduce general revenues, as well as those for schools and other dedicated funds.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to

meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office other than if state revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city, as a result of this initiative petition.

Officials from the **City of Kansas City** indicated:

The proposed state assessments on non-participating manufacturer cigarettes and vapor product material would have no fiscal impact on their city. The prohibition on new local government taxes, licenses, fees or special assessments on vapor products or vapor product material could reduce their future revenue, but the amount of future lost revenue cannot be determined.

Officials from **University of Central Missouri estimate** no fiscal impact.

Officials from **Truman State University** indicated no impact.

Marc Ellinger provided the following information as a proponent of this initiative petition.

I submit the following proposed statement of fiscal impact for the four Initiative Petitions I filed on January 30, 2014, with the Missouri Secretary of State's Office, on behalf of the Initiative Petitions.

There is little cost to state or local governments based upon the proposed Initiative Petitions. The income tax rate will be reduced only upon increased revenue as a result of the additional fees or assessments in the proposed measure.

Fiscal Notes and Fiscal Note Summaries for 2014-096 to 2014-099

On January 29, 2014, the Secretary of State certified ballot titles for four other similar initiative petitions. Those petitions each received the same fiscal note summary as follows:

> Taxes and fees collected annually under the proposal are used to calculate permanent reductions to the individual income tax rate. This process over several decades could eliminate the individual income tax, which would be approximately $6 billion in annual revenue based on current collections. Whether the proposal will be revenue neutral cannot be determined.[1]

Not only does this statement not state the measures' estimated costs or savings, it appears to be a significant deviation from the Auditor's usual practice in attempting to quantify the fiscal impact "over several decades." There are also differences between the Initiative Petitions that would justify different fiscal note summaries. I urge the Auditor to closely examine each of the initiative petitions currently before him and adopt a fiscal note summary for each which (1) states the measure's cost or savings (2) specific to that initiative petition , and (3) within a reasonable time frame.

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[1] The Fiscal Notes, which include the Fiscal Note Summaries are available at http://auditor.mo.gov/Notes/FiscalNotes.aspx?year=2014.

The Incorrect Estimation for the Income Tax Rate Reduction

The Fiscal Note Summaries for 2014-096 to 2014-099 were largely based on two responses: the Department of Revenue and the Office of Administration, Division of Budget & Planning. Both attempt to estimate the tax collections from the new assessments and fees.

	DOR	BAP	Final Estimates
	2015		
$0.55 Equity Assessment Fee	71,200,000.00	unknown	71,200,000.00
$.034 Vapor Products Unit Assessment	unknown	552,000.00	552,000.00
$0.17 Cigarette Special Assessment	88,500,000.00	81,800,000.00	85,150,000.00
Total New Revenue Generated			
2014-96 (EAF+VPU)			71,752,000.00
2014-97, 2014-98, 2014-99 (EAF+VPU+CSA)			156,902,000.00
The Final Estimate of the Cigarette Special Asssessment is an Average of the DOR and BAP Estimates.			

The Department of Revenue suggests (for the 2014-97 to 99) measures that this increase "will result in a reduction to the individual income tax rate of .03 percent, decreasing general revenue by 206.3 million." The Department's estimate suggests they are estimating every .01 percent decrease in the income tax to equate to approximately $68.9 million dollars.

Similarly, the Office of Administration, Division of Budget and Planning estimates "each 0.1% reduction may reduce revenues by $69M or more." BAP suggests that for 2014-97 to -99, "the 'reduction factor' may be rounded up to as much as 0.3%, for a reduction of at least $207M."

Neither DOR nor BAP explain how they equate each 0.1% reduction to $69M in revenue. The Comprehensive Annual Financial Report for FY 2013, prepared by the Office of Administration and audited by you, the State Auditor, reports personal income tax revenue at

$6,374,093,816.00.[2] If you calculate the tax base, and then from that base, calculate the .1% reduction, a different number than the one put forth by BAP and DOR emerges.

Reduction Factor	
FY 2013 Income Tax Collections	6,374,093,816.00
Taxable Base (assuming 6% tax rate)	106,234,896,933.33
If the rate was 5.9%, taxable base is...	6,267,858,919.07
Difference (or .1% equates to...)	106,234,896.93

Based on the estimate that each .1% reduction equates to $106M, the tax rate would only be reduced to 5.9% for 2014-96 (for the $71.8 increase in revenues) and 5.7% for 2014-97 to 99 measures.

Office of Administration, Budget & Planning's Speculation

BAP states:

> ...the proposed subsection 27(b) requires the income tax rate to be "permanently reduced" effective the immediately ensuring tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if the collection of tobacco taxes remains stable or decreases, or if income taxes declines [sic]...It might follow that this proposal eliminates the income tax in twenty to sixty years...

(emphasis added). The speculation required to reach the conclusion that the proposed measure *could* eliminate $6 billion in revenue is evident from the language itself.

It is also based on a misinterpretation of the proposed measure. Any confusion about such language in 2014-096 to 2014-099 is clarified in 2014-118 to 2014-121. This new language completely extinguishes any possibility of the scenario described by BAP above.

[2]The Comprehensive Annual Financial Report for FY 2013, available at http://content.oa.mo.gov/sites/default/files/CAFR_2013.pdf

Fiscal Impact for 2014-118 to 2014-121

While the four measures before the Auditor are similar to the four that have previously been submitted, they are not identical. First, the measures change the assessment on VPU. BAP original estimated the sale of 24M mL of vapor products. This means there is approximately 81.2 M (.01) Fluid Ounces. At the rate of one cent, that translates to $0.812M. This change is reflected in the summary below.

	DOR	BAP	Final Estimates
		2015	
$0.55 Equity Assessment Fee	71,200,000.00	unknown	71,200,000.00
$.01 Vapor Products Unit Assessment	unknown		812,000.00
$0.17 Cigarette Special Assessment	88,500,000.00	81,800,000.00	85,150,000.00
Total New Revenue Generated			
2014-118 (EAF+VPU)			72,012,000.00
2014-119 (EAF+VPU+CSA)			157,162,000.00
2014-120 (VPU+CSA)			85,962,000.00
2014-121 (VPU)			812,000.00
The Final Estimate of the Cigarette Special Asssessment is an Average of the DOR and BAP Estimates.			

Based on the estimate that each .1% reduction in the income tax rate equates to $106M, Initiative Petitions 2014-118, 2014-120, and 2014-121 would only require a .1% reduction in the rate. Initiative Petition 2014-119 could require a .2% reduction in the income tax rate. Those reductions (due to rounding) will not equal the revenue generated, as pointed out by both DOR and BAP. The summary of the difference between the new revenue as a result of the fees or assessments and the reduced revenue as a result of a lower income tax rate is below.

	Total New Revenue Generated	Revenue Reduction due to Decreased Income Tax Rate	Difference (Potential Cost to State Government in 2015)
2014-118 (EAF+VPU)	72,012,000.00	106,234,896.93	-34,222,896.93
2014-119 (EAF+VPU+CSA)	157,162,000.00	212,469,793.86	-55,307,793.86
2014-120 (VPU+CSA)	85,962,000.00	106,234,896.93	-20,272,896.93
2014-121 (VPU)	812,000.00	106,234,896.93	-105,422,896.93

While losses in the amount of $34 to $105 million may initially sound like substantially losses, when compared with the $6.37 billion in income tax collections annually, any potential loss is quite minimal. Even the most significant loss of $105 million only equates to about a 1.65% loss of revenue in income tax collections as a result of the rate change.

	Loss Compared to Total FY 2013 Income Tax Collections (as a %)
2014-118 (EAF+VPU)	-0.53%
2014-119 (EAF+VPU+CSA)	-0.87%
2014-120 (VPU+CSA)	-0.32%
2014-121 (VPU)	-1.65%

Conclusion

Certainly any losses from the proposed measures in 2014-118 to 2014-121 are a far cry from the previous estimate of "$6 billion" over several decades. I urge you to closely examine these proposed measures and draft fiscal note summaries which (1) states the measure's cost or savings (2) specific to that initiative petition, and (3) within a reasonable time frame. A proposed statement of fiscal impact which I believe to be neither insufficient nor unfair is as follows:

> Annual state government revenue under this proposal may decrease by up to $[21 | 34 | 55 | 106] million dollars, equating to less than [1 | 1 | 1 | 2]% of total income tax revenue. The fiscal impact to local governments is unknown.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University,** and **Southeast Missouri State University.**

Fiscal Note Summary

Annual state revenue may initially decrease by $34 million to $66 million due to individual income tax revenue decreasing by more than the increased revenue from the proposal's provisions. In subsequent years, if the revenue collected from the proposal's provisions exceed those collected in the immediate preceding fiscal year, additional unknown decreases may occur.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-119)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article X. (Received January 31, 2014)

Date

February 20, 2014

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Marc Ellinger provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated an unknown fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

The individual income tax is reduced per "reduction factor" (i.e. the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected from the fees or assessments imposed). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

They defer to DOR in regard to collection amounts resulting from the assessments and/or fees imposed.

All revenues generated shall be used to reduce the individual income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the proposal appears to address the reduction and\or permanent elimination of the individual income tax rate. It does not appear to allow for an increase or adjustment to the individual income tax rate when the collection of assessments and/or fees are insufficient to cover the reduction factor in any previous year. This could ultimately lead to a situation where there are minimal taxes collected from individual income taxes and minimal collections from the assessments and/or fees created here, such that state revenues could be significantly diminished. This would negatively impact the state school foundation formula.

Officials from the **Department of Higher Education** indicated this proposal would not result in any costs or savings for their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased operating costs for the department will be $265,672 for fiscal year 2015, $206,774 for fiscal year 2016, and $208,925 for fiscal year 2017.

The IT portion of this fiscal impact is estimated with a level of effort valued at $55,037. This value is based on 2,016 FTE hours.

This amendment may result in a decrease in total state revenue. While the increase due to the $0.01 tax on vapor product units is unknown, the $0.17 assessment fee on all cigarette packages will increase revenues by $88.5 million the first year the amendment goes into effect. The $0.55 assessment fee on all non-participating manufacturer cigarettes will result in an increase of $72.1 million. This increase will result in a reduction of the individual income tax rate to 5.7 percent, decreasing general revenue by an estimated $206.3 million. The department assumes that the assessments charged to vapor unit products and non-participating manufacturer cigarette packages will be deposited into the General Revenue fund, resulting in a net loss of $45.7 million dollars to general revenue.

The increase in assessments on vapor products and cigarettes increases state revenues, but not enough to offset income tax losses. If the amendment permanently reduces individual income tax based on the increased assessments and then vapor products and cigarette sales decrease, this may lead to further reductions in state revenues.

SECTION 26
This section permanently reduces individual income tax by the amount collected by the state from the assessments imposed in Section 27.

Administrative Impact:
Personal Tax:
Personal Tax will require programming support and forms changes. Additionally, Personal Tax will need one (1) Revenue Processing Technician I to process correspondence.

Collections & Tax Assistance:
Based on Section 26, Collection & Tax Assistance anticipates additional customer contacts due to the tax rate change and adjustment notices. Collection & Tax Assistance

will require two (2) Tax Collection Technicians I for additional contacts on the non-delinquent and delinquent tax lines and one (1) Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and licenses.

ITSD-DOR:
Individual: Tax rate reduction – 504 hours

Section 27
This petition adds an additional $0.17 per pack special assessment on cigarettes purchased after the effective date of this amendment. This section proposes a new assessment of $0.01 per .01 fluid ounce of vapor product material.

The petition also imposes an equity assessment fee of $0.55 per pack of non-participating manufacturer cigarettes. In addition to the above assessments, the petition requires any person that provides cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers be considered a manufacturer.

This section prevents any political subdivision to increase to the tax, license, fee or special assessment on cigarettes or tobacco products.

Administrative Impact:
Excise Tax:
Depending on who collects the tax, either 250 licensed wholesalers or approximately 4,500 retailers need to be notified of the provisions of this amendment. New reporting forms would need to be developed and a program would be needed to track the information.

Excise Tax requires one (1) Revenue Processing Technician I for every 3,000 returns.

The department assumes that all revenues collected would go to the general revenue fund. This would require changes to the cashiering functions and to SAM II entry.

New reporting forms would need to be developed, 120 cigarette wholesalers would need to be notified, the Peach Tree Accounting System would require updating to allow for the tax rate and changes would need to be made to cashiering functions and to SAM II entry.

Mailing costs to wholesalers and retailers:

Wholesalers:	120 x $0.555 =	$ 66.60
Retailers:	4500 x $0.555 =	$2,497.50
Total:		$2,564.10

ITSD-DOR:
Excise: New Vapor Product Excise Tax system – 1008 hours
New assessment on non-participating manufacturer cigarettes – 504 hours

Comments:

Section 26
This section allows for the individual income tax to be permanently reduced. However, it does not provide for any increase if in future years the revenues derived from the special assessments imposed in Section 27 decrease. It is also unclear if the rate reduction occurs if the assessment amounts collected remain the same from year to year. The language is also vague as to who is responsible for determining whether the decrease is reoccurring.

Section 27
Although it is not stated within this amendment, the department assumes that the assessments collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Currently, the department collects other tobacco product's tax on the manufacturer's invoice price of a product. To collect the special assessment based upon a number of ounces provides special challenges for the department.

Internet research indicates most material containing nicotine is measured in milliliters (ml) not ounces. Therefore, conversion will be needed to determine the special assessment amount based upon ounces. Additionally, electronic cigarette kits contain cartridges containing small amounts of fluid (usually somewhere between 3 to 7 drops). This may be difficult to calculate the amount due.

It is also unclear if the vapor product unit must contain at least .05 ounces. It is unclear if a kit that contains two cartridges that hold less than .05 ounces is still subject to assessment. The department assumes that the assessment can be based upon a fractional part of .05 ounces. The department also assumes that if a product contains 30 ml then that would be converted to ounces and divided by .05 to determine the number of "Vapor Product Units" subject to assessment.

The language is unclear as to who would be responsible for remitting the special assessment fee, whether at the sale by the wholesaler to the retailer or at the sale by the retailer to the consumer.

If the FDA should ever regulate these products under Chapter V, they would no longer be subject to the special assessment.

It is unclear if the person responsible for collecting the special assessment would need to be licensed or not. If licensing of retailers is required, additional personnel will be needed. Additionally, if licensing is required, it is unclear if the requirements in Chapter 149 can be applied, which impose a yearly fee and requiring submission of a bonding instrument.

There does not appear to be any penalty provisions for non-compliance. It is unclear if the person remitting the tax will be granted any collection allowances. There are no refund provisions.

The department assumes the effective date of this legislation would be upon certification of the election results by the Secretary of State. This would not allow sufficient time to make all the necessary form changes, programming changes and notifications. It is recommended that the effective date be changed to July 1, 2015. This will also reduce the burden on the wholesalers required to implement the assessment in the middle of the month.

Current cigarette taxes are imposed upon the consumer. This legislation appears to impose the tax on the wholesaler, making the assessment fee subject to sales tax. This may be confusing to retailers, as they currently do not charge sales tax on the state cigarette tax.

As this legislation requires that the assessment be collected in the same manner as other cigarette tax, this would require the design and purchase of new cigarette stamps to be used only on non-participating manufacturer cigarettes. Because of the special assessment in this section, an additional series of stamps would have to be designed and purchased. Although a separate stamp could be developed, in consultation with cigarette wholesalers, this would put an extreme burden on wholesalers to apply separate stamps to each pack of cigarettes.

The department budgets for and purchases all cigarette stamps for the fiscal year at one time. The implementation of a new tax at a time other than the beginning of a fiscal year could result in inventory of stamps that will be obsolete and would have to be destroyed. Additionally, there may not be sufficient funds in the budget to allow the purchase of the new stamps.

The department assumes that the compensation allowance of 3 percent provided for in Chapter 149.021 RSMo would apply to the special assessment fee, as the fee is to be collected in the same way as other cigarette taxes. The department also assumes that as this assessment is to be collected in the same manner as other cigarette taxes, this would allow for the credit or refund on returned stamps.

Technical errors

Section 27 (c)
This section refers to the special assessment in section 26 (a). However, the special assessment is in 27 (a).

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this initiative petition.

Officials from the **Department of Social Services** indicated since this initiative petition imposes a special assessment and provides for a reduction in the individual income tax, it has the potential to affect total state revenue. However, there is no direct fiscal impact to their department. Since the budget of any state agency is dependent upon the appropriations process, they cannot predict whether their department might be affected if this proposal were to result in a change in the total amount of general revenue available to fund state government.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

These proposals create, upon voter approval, additional taxes on various tobacco products.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

Vapor Product Units (all versions):
The proposals create an additional tax of $0.01 levied on each "Vapor Product Unit" (VPU), defined as 0.01 fl. oz. of nicotine product.

- According to a recent analysis by Wells Fargo Securities,[1] national sales of e-cigarettes will total $1.7 billion in 2013.
- BAP assumes 2% of this figure represents sales in MO, and of this, 90% is sales of VPUs, or about $32M.
- BAP assumes these sales are in the form of "cartridges" that retail for $2 each, or 16M cartridges. Also, each cartridge contains 1.5 mL of liquid, for a total of 24M mL. However, there are numerous e-cigarette products, with various amounts of fluid, offered at an array of prices for consumers to choose from.
- BAP notes that 24M mL is about 0.812M fl. oz.,[2] which implies about 81.15M VPUs are sold in MO.
- At $0.01 per VPU, this would generate about $0.8122M in additional revenues.

[1] http://www.cnbc.com/id/100991511#_gus
[2] http://www.convertunits.com/from/fluid+ounces/to/ml

Cigarette Tax (versions 119 & 120):
The proposals create an additional cigarette tax of $0.17 per pack, which doubles the current rate of tax. BAP notes that cigarette tax revenues in FY13 totaled just over $86.8M. However, the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $81.8M of revenues.

Equity Assessment Fee for NPMs (versions 118 & 119):
The proposals create an Equity Assessment Fee of $0.55 per pack for the sale of Non-Participating Manufacturer cigarettes. The DOR may have an estimate of the revenue that may be generated.

Cigarette Mfg (all versions).
The proposals stipulate that any person that provides cigarette manufacturing services is deemed to be a manufacturer. This may increase revenues, to the extent that sellers of these services remit taxes based on stamped products, instead of paying any "other tobacco products" taxes they may currently be paying.

Bonds for Non-Participating Mfgs (versions 120 & 121)
These proposals require Non-Participating Manufactures to post a bond to the state of Missouri. This will increase general and total state revenues by an unknown amount.

Income Tax Reduction Factor (all versions):
The proposals require the existing rate of the individual income tax to be reduced by a "reduction factor." There are several marginal income tax rates in statute; BAP assumes this proposal refers to the top marginal rate in effect. The "reduction factor" means the percentage, rounded to the nearest tenth, but not less than 0.1%, sufficient to reduce collections by an amount equal to the annual increase in the tobacco taxes collected above. Based on 2011 Tax Year data, BAP estimates each 0.1% reduction may reduce revenues by $69M or more, depending on the rate in effect. Thus, the "reduction factor" may be rounded up to as much as 0.3%, for a reduction of at least $207M, in the first year. In subsequent years, an increase in the proposed taxes of only $1 would lead to a reduction of $69M or more.

Further, the proposal requires the income tax rate to be "permanently reduced" effective the immediately ensuing tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if income taxes decline because of economic conditions. It might follow that this proposal eventually eliminates the income tax so long as any of the proposed tobacco revenues continue to be collected, and increase by any amount.

Other Comments:

The reduction in income tax rates will reduce general revenues. However, it is unclear from this proposal if the new tobacco revenues will be deposited into general revenue or other dedicated funds.

Any reduction in the number of tobacco products sold may also reduce sales taxes. This would further reduce general revenues, as well as those for schools and other dedicated funds.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office other than if state revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city, as a result of this initiative petition.

Officials from the **City of Kansas City** indicated:

The proposed state assessments on non-participating manufacturer cigarettes and vapor product material would have no fiscal impact on their city. The prohibition on new local government taxes, licenses, fees or special assessments on vapor products or vapor product material could reduce their future revenue, but the amount of future lost revenue cannot be determined.

Officials from **University of Central Missouri estimate** no fiscal impact.

Officials from **Truman State University** indicated no impact.

Marc Ellinger provided the following information as a proponent of this initiative petition.

I submit the following proposed statement of fiscal impact for the four Initiative Petitions I filed on January 30, 2014, with the Missouri Secretary of State's Office, on behalf of the Initiative Petitions.

There is little cost to state or local governments based upon the proposed Initiative Petitions. The income tax rate will be reduced only upon increased revenue as a result of the additional fees or assessments in the proposed measure.

Fiscal Notes and Fiscal Note Summaries for 2014-096 to 2014-099

On January 29, 2014, the Secretary of State certified ballot titles for four other similar initiative petitions. Those petitions each received the same fiscal note summary as follows:

> Taxes and fees collected annually under the proposal are used to calculate permanent reductions to the individual income tax rate. This process over several decades could eliminate the individual income tax, which would be approximately $6 billion in annual revenue based on current collections. Whether the proposal will be revenue neutral cannot be determined.[1]

Not only does this statement not state the measures' estimated costs or savings, it appears to be a significant deviation from the Auditor's usual practice in attempting to quantify the fiscal impact "over several decades." There are also differences between the Initiative Petitions that would justify different fiscal note summaries. I urge the Auditor to closely examine each of the initiative petitions currently before him and adopt a fiscal note summary for each which (1) states the measure's cost or savings (2) specific to that initiative petition , and (3) within a reasonable time frame.

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[1] The Fiscal Notes, which include the Fiscal Note Summaries are available at http://auditor.mo.gov/Notes/FiscalNotes.aspx?year=2014.

The Incorrect Estimation for the Income Tax Rate Reduction

The Fiscal Note Summaries for 2014-096 to 2014-099 were largely based on two responses: the Department of Revenue and the Office of Administration, Division of Budget & Planning. Both attempt to estimate the tax collections from the new assessments and fees.

	DOR	BAP	Final Estimates
	2015		
$0.55 Equity Assessment Fee	71,200,000.00	unknown	71,200,000.00
$.034 Vapor Products Unit Assessment	unknown	552,000.00	552,000.00
$0.17 Cigarette Special Assessment	88,500,000.00	81,800,000.00	85,150,000.00
Total New Revenue Generated			
2014-96 (EAF+VPU)			71,752,000.00
2014-97, 2014-98, 2014-99 (EAF+VPU+CSA)			156,902,000.00
The Final Estimate of the Cigarette Special Asssessment is an Average of the DOR and BAP Estimates.			

The Department of Revenue suggests (for the 2014-97 to 99) measures that this increase "will result in a reduction to the individual income tax rate of .03 percent, decreasing general revenue by 206.3 million." The Department's estimate suggests they are estimating every .01 percent decrease in the income tax to equate to approximately $68.9 million dollars.

Similarly, the Office of Administration, Division of Budget and Planning estimates "each 0.1% reduction may reduce revenues by $69M or more." BAP suggests that for 2014-97 to -99, "the 'reduction factor' may be rounded up to as much as 0.3%, for a reduction of at least $207M."

Neither DOR nor BAP explain how they equate each 0.1% reduction to $69M in revenue. The Comprehensive Annual Financial Report for FY 2013, prepared by the Office of Administration and audited by you, the State Auditor, reports personal income tax revenue at

$6,374,093,816.00.[2] If you calculate the tax base, and then from that base, calculate the .1% reduction, a different number than the one put forth by BAP and DOR emerges.

Reduction Factor	
FY 2013 Income Tax Collections	6,374,093,816.00
Taxable Base (assuming 6% tax rate)	106,234,896,933.33
If the rate was 5.9%, taxable base is...	6,267,858,919.07
Difference (or .1% equates to...)	106,234,896.93

Based on the estimate that each .1% reduction equates to $106M, the tax rate would only be reduced to 5.9% for 2014-96 (for the $71.8 increase in revenues) and 5.7% for 2014-97 to 99 measures.

Office of Administration, Budget & Planning's Speculation

BAP states:

> ...the proposed subsection 27(b) requires the income tax rate to be "permanently reduced" effective the immediately ensuring tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if the collection of tobacco taxes remains stable or decreases, or if income taxes declines [sic]...It might follow that this proposal eliminates the income tax in twenty to sixty years...

(emphasis added). The speculation required to reach the conclusion that the proposed measure *could* eliminate $6 billion in revenue is evident from the language itself.

It is also based on a misinterpretation of the proposed measure. Any confusion about such language in 2014-096 to 2014-099 is clarified in 2014-118 to 2014-121. This new language completely extinguishes any possibility of the scenario described by BAP above.

[2]The Comprehensive Annual Financial Report for FY 2013, available at http://content.oa.mo.gov/sites/default/files/CAFR_2013.pdf

Fiscal Impact for 2014-118 to 2014-121

While the four measures before the Auditor are similar to the four that have previously been submitted, they are not identical. First, the measures change the assessment on VPU. BAP original estimated the sale of 24M mL of vapor products. This means there is approximately 81.2 M (.01) Fluid Ounces. At the rate of one cent, that translates to $0.812M. This change is reflected in the summary below.

	DOR	BAP	Final Estimates
		2015	
$0.55 Equity Assessment Fee	71,200,000.00	unknown	71,200,000.00
$.01 Vapor Products Unit Assessment	unknown		812,000.00
$0.17 Cigarette Special Assessment	88,500,000.00	81,800,000.00	85,150,000.00
Total New Revenue Generated			
2014-118 (EAF+VPU)			72,012,000.00
2014-119 (EAF+VPU+CSA)			157,162,000.00
2014-120 (VPU+CSA)			85,962,000.00
2014-121 (VPU)			812,000.00
The Final Estimate of the Cigarette Special Asssessment is an Average of the DOR and BAP Estimates.			

Based on the estimate that each .1% reduction in the income tax rate equates to $106M, Initiative Petitions 2014-118, 2014-120, and 2014-121 would only require a .1% reduction in the rate. Initiative Petition 2014-119 could require a .2% reduction in the income tax rate. Those reductions (due to rounding) will not equal the revenue generated, as pointed out by both DOR and BAP. The summary of the difference between the new revenue as a result of the fees or assessments and the reduced revenue as a result of a lower income tax rate is below.

	Total New Revenue Generated	Revenue Reduction due to Decreased Income Tax Rate	Difference (Potential Cost to State Government in 2015)
2014-118 (EAF+VPU)	72,012,000.00	106,234,896.93	-34,222,896.93
2014-119 (EAF+VPU+CSA)	157,162,000.00	212,469,793.86	-55,307,793.86
2014-120 (VPU+CSA)	85,962,000.00	106,234,896.93	-20,272,896.93
2014-121 (VPU)	812,000.00	106,234,896.93	-105,422,896.93

While losses in the amount of $34 to $105 million may initially sound like substantially losses, when compared with the $6.37 billion in income tax collections annually, any potential loss is quite minimal. Even the most significant loss of $105 million only equates to about a 1.65% loss of revenue in income tax collections as a result of the rate change.

	Loss Compared to Total FY 2013 Income Tax Collections (as a %)
2014-118 (EAF+VPU)	-0.53%
2014-119 (EAF+VPU+CSA)	-0.87%
2014-120 (VPU+CSA)	-0.32%
2014-121 (VPU)	-1.65%

Conclusion

Certainly any losses from the proposed measures in 2014-118 to 2014-121 are a far cry from the previous estimate of "$6 billion" over several decades. I urge you to closely examine these proposed measures and draft fiscal note summaries which (1) states the measure's cost or savings (2) specific to that initiative petition, and (3) within a reasonable time frame. A proposed statement of fiscal impact which I believe to be neither insufficient nor unfair is as follows:

> Annual state government revenue under this proposal may decrease by up to $[21 | 34 | 55 | 106] million dollars, equating to less than [1 | 1 | 1 | 2]% of total income tax revenue. The fiscal impact to local governments is unknown.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University,** and **Southeast Missouri State University.**

Fiscal Note Summary

Annual state revenue may initially decrease by $46 million to $55 million due to individual income tax revenue decreasing by more than the increased revenue from the proposal's provisions. In subsequent years, if the revenue collected from the proposal's provisions exceed those collected in the immediate preceding fiscal year, additional unknown decreases may occur.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-120)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article X. (Received January 31, 2014)

Date

February 20, 2014

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Marc Ellinger provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated an unknown fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

The individual income tax is reduced per "reduction factor" (i.e. the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected from the fees or assessments imposed). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

They defer to DOR in regard to collection amounts resulting from the assessments and/or fees imposed.

All revenues generated shall be used to reduce the individual income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the proposal appears to address the reduction and\or permanent elimination of the individual income tax rate. It does not appear to allow for an increase or adjustment to the individual income tax rate when the collection of assessments and/or fees are insufficient to cover the reduction factor in any previous year. This could ultimately lead to a situation where there are minimal taxes collected from individual income taxes and minimal collections from the assessments and/or fees created here, such that state revenues could be significantly diminished. This would negatively impact the state school foundation formula.

Officials from the **Department of Higher Education** indicated this proposal would not result in any costs or savings for their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased operating costs for the department will be $251,913 for fiscal year 2015, $206,774 for fiscal year 2016, and $208,925 for fiscal year 2017.

The IT portion of this fiscal impact is estimated with a level of effort valued at $41,278. This value is based on 1,512 FTE hours.

This amendment may result in a decrease in total state revenue. While the increase due to the $0.01 tax on vapor product units is unknown, the $0.17 assessment fee on all cigarette packages will increase revenues by $88.5 million the first year the amendment goes into effect. This increase will result in a reduction of the individual income tax rate to 5.8 percent, decreasing general revenue by an estimated $137.6 million. The department assumes that the assessments will be deposited into the General Revenue fund, resulting in a net loss of $49.1 million dollars to general revenue.

Currently, there are seven certified non-participating manufacturers in the state. If all are required to post bonds of $25,000, this will increase funds by $175,000.

The new assessments on vapor products and cigarettes will increase state revenues and the income rate reduction will decrease state revenues. If the amendment permanently reduces individual income based on the increased assessments and then vapor products and cigarette sales decrease, this may lead to further reductions in state revenues.

SECTION 26
This section permanently reduces individual income tax by the amount collected by the state from the assessments imposed in Section 27.

Administrative Impact:
Personal Tax:
Personal Tax requires programming support and forms changes. Additionally, Personal Tax needs one (1) Revenue Processing Technician I to process correspondence.

Collections & Tax Assistance:
Based on section 26, Collections & Tax Assistance anticipates additional customer contacts due to the tax rate change and adjustment notices. Collections & Tax Assistance

requires two (2) Tax Collection Technicians I for additional contacts on the non-delinquent and delinquent tax lines and one (1) Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and licenses.

ITSD-DOR:
Individual: Tax rate reduction – 504 hours

Section 27:
The petition modifies Section 27(a) by inserting the language adding a special assessment of $0.17 per pack of 20 cigarettes. This section proposes a new assessment of $0.01 per .01 fluid ounce of vapor product material.

In addition to the above assessments, the petition requires that any person that provides cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers be considered a manufacturer.

This amendment also requires each non-participating manufacturer to post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding quarters; it or its affiliate did not make a full and timely escrow deposit; or if it or its affiliate was removed from the state directory of any state during any of the five proceeding calendar years.

Administrative Impact:
Excise Tax:
Depending on who collects the tax, either 250 licensed wholesalers or approximately 4,500 retailers need to be notified of the provisions of this amendment. New reporting forms would need to be developed and a program would be needed to track the information.

Excise Tax requires one (1) Revenue Processing Technician I for every 3,000 returns.

New reporting forms would need to be developed, 120 cigarette wholesalers would need to be notified and changes would need to be made to cashiering functions.

Mailing costs to wholesalers and retailers:

Wholesalers:	120 x $0.555 =	$ 66.60
Retailers:	4500 x $0.555 =	$2,497.50
Total:		$2,564.10

ITSD-DOR:
Excise: New Vapor Product Excise Tax system – 1008 hours
New assessment on non-participating manufacturer cigarettes – 504 hours

Section 26
This section allows for the individual income tax to be permanently reduced. However, it does not provide for any increase if in future years the revenues derived from the special

assessments imposed in Section 27 decrease. It is also unclear if the rate reduction occurs if the assessment amounts collected remain the same from year to year. The language is also vague as to who is responsible for determining whether the decrease is reoccurring.

Section 27
Although it is not stated within this amendment, the department assumes that the assessments collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Currently, the department collects other tobacco products' tax on the manufacturer's invoice price of a product. To collect the special assessment based upon a number of ounces provides special challenges for the department.

Internet research indicates most material containing nicotine is measured in milliliters (ml) not ounces. Therefore, conversion will be needed to determine the special assessment amount based upon ounces. Additionally, electronic cigarette kits contain cartridges containing small amounts of fluid (usually somewhere between 3 to 7 drops). This may be difficult to calculate the amount due.

The language is unclear as to who would be responsible for remitting the special assessment fee, whether at the sale by the wholesaler to the retailer or at the sale by the retailer to the consumer.

If the FDA should ever regulate these products under Chapter V, they would no longer be subject to the special assessment.

It is unclear if the person responsible for collecting the special assessment would need to be licensed or not. If licensing of retailers is required, additional personnel will be needed. Additionally, if licensing is required, it is unclear if the requirements in Chapter 149 can be applied, which impose a yearly fee and requiring submission of a bonding instrument.

There does not appear to be any penalty provisions for non-compliance. It is unclear if the person remitting the tax will be granted any collection allowances. There are no refund provisions.

The department assumes the effective date of this legislation would be upon certification of the election results by the Secretary of State. This would not allow sufficient time to make all the necessary form changes, programming changes and notifications. It is recommended that the effective date be changed to July 1, 2015. This will also reduce the burden on the wholesalers required to implement the assessment in the middle of the month.

Current cigarette taxes are imposed upon the consumer. This legislation appears to impose the tax on the wholesaler, making the assessment fee subject to sales tax. This

may be confusing to retailers, as they currently do not charge sales tax on the state cigarette tax.

As this legislation requires that the assessment be collected in the same manner as other cigarette tax, this would require the design and purchase of new cigarette stamps to be used only on non-participating manufacturer cigarettes. Because of the special assessment in this section, an additional series of stamps would have to be designed and purchased. Although a separate stamp could be developed, in consultation with cigarette wholesalers, this would put an extreme burden on wholesalers to apply separate stamps to each pack of cigarettes.

The department budgets for and purchases all cigarette stamps for the fiscal year at one time. The implementation of a new tax at a time other than the beginning of a fiscal year could result in inventory of stamps that will be obsolete and would have to be destroyed. Additionally, there may not be sufficient funds in the budget to allow the purchase of the new stamps.

The department assumes that the compensation allowance of 3 percent provided for in Chapter 149.021 RSMo would apply to the special assessment fee, as the fee is to be collected in the same way as other cigarette taxes. The department also assumes that as this assessment is to be collected in the same manner as other cigarette taxes, this would allow for the credit or refund on returned stamps.

It is unclear as to where the bonds posted in Section 27(f) will be deposited. It is also unclear as to who is responsible for holding and tracking the bonds. The department does not have the ability to determine which non-participating manufacturers have been removed from the state directory in any other state.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this initiative petition.

Officials from the **Department of Social Services** indicated since this initiative petition imposes a special assessment and provides for a reduction in the individual income tax, it has the potential to affect total state revenue. However, there is no direct fiscal impact to their department. Since the budget of any state agency is dependent upon the appropriations process, they cannot predict whether their department might be affected if this proposal were to result in a change in the total amount of general revenue available to fund state government.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

These proposals create, upon voter approval, additional taxes on various tobacco products.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

Vapor Product Units (all versions):
The proposals create an additional tax of $0.01 levied on each "Vapor Product Unit" (VPU), defined as 0.01 fl. oz. of nicotine product.

- According to a recent analysis by Wells Fargo Securities,[1] national sales of e-cigarettes will total $1.7 billion in 2013.
- BAP assumes 2% of this figure represents sales in MO, and of this, 90% is sales of VPUs, or about $32M.
- BAP assumes these sales are in the form of "cartridges" that retail for $2 each, or 16M cartridges. Also, each cartridge contains 1.5 mL of liquid, for a total of 24M mL. However, there are numerous e-cigarette products, with various amounts of fluid, offered at an array of prices for consumers to choose from.
- BAP notes that 24M mL is about 0.812M fl. oz.,[2] which implies about 81.15M VPUs are sold in MO.
- At $0.01 per VPU, this would generate about $0.8122M in additional revenues.

Cigarette Tax (versions 119 & 120):
The proposals create an additional cigarette tax of $0.17 per pack, which doubles the current rate of tax. BAP notes that cigarette tax revenues in FY13 totaled just over $86.8M. However, the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $81.8M of revenues.

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The proposals create an Equity Assessment Fee of $0.55 per pack for the sale of Non-Participating Manufacturer cigarettes. The DOR may have an estimate of the revenue that may be generated.

Cigarette Mfg (all versions).
The proposals stipulate that any person that provides cigarette manufacturing services is deemed to be a manufacturer. This may increase revenues, to the extent that sellers of these services remit taxes based on stamped products, instead of paying any "other tobacco products" taxes they may currently be paying.

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These proposals require Non-Participating Manufactures to post a bond to the state of Missouri. This will increase general and total state revenues by an unknown amount.

Income Tax Reduction Factor (all versions):
The proposals require the existing rate of the individual income tax to be reduced by a "reduction factor." There are several marginal income tax rates in statute; BAP assumes this proposal refers to the top marginal rate in effect. The "reduction factor" means the percentage, rounded to the nearest tenth, but not less than 0.1%, sufficient to reduce collections by an amount equal to the annual increase in the tobacco taxes collected above. Based on 2011 Tax Year data, BAP estimates each 0.1% reduction may reduce revenues by $69M or more, depending on the rate in effect. Thus, the "reduction factor" may be rounded up to as much as 0.3%, for a reduction of at least $207M, in the first year. In subsequent years, an increase in the proposed taxes of only $1 would lead to a reduction of $69M or more.

Further, the proposal requires the income tax rate to be "permanently reduced" effective the immediately ensuing tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if income taxes decline because of economic conditions. It might follow that this proposal eventually eliminates the income tax so long as any of the proposed tobacco revenues continue to be collected, and increase by any amount.

Other Comments:

The reduction in income tax rates will reduce general revenues. However, it is unclear from this proposal if the new tobacco revenues will be deposited into general revenue or other dedicated funds.

Any reduction in the number of tobacco products sold may also reduce sales taxes. This would further reduce general revenues, as well as those for schools and other dedicated funds.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to

meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office other than if state revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city, as a result of this initiative petition.

Officials from the **City of Kansas City** indicated:

The proposed state assessments on non-participating manufacturer cigarettes and vapor product material would have no fiscal impact on their city. The prohibition on new local government taxes, licenses, fees or special assessments on vapor products or vapor product material could reduce their future revenue, but the amount of future lost revenue cannot be determined.

Officials from **University of Central Missouri** estimate no fiscal impact.

Officials from **Truman State University** indicated no impact.

Marc Ellinger provided the following information as a proponent of this initiative petition.

I submit the following proposed statement of fiscal impact for the four Initiative Petitions I filed on January 30, 2014, with the Missouri Secretary of State's Office, on behalf of the Initiative Petitions.

There is little cost to state or local governments based upon the proposed Initiative Petitions. The income tax rate will be reduced only upon increased revenue as a result of the additional fees or assessments in the proposed measure.

Fiscal Notes and Fiscal Note Summaries for 2014-096 to 2014-099

On January 29, 2014, the Secretary of State certified ballot titles for four other similar initiative petitions. Those petitions each received the same fiscal note summary as follows:

> Taxes and fees collected annually under the proposal are used to calculate permanent reductions to the individual income tax rate. This process over several decades could eliminate the individual income tax, which would be approximately $6 billion in annual revenue based on current collections. Whether the proposal will be revenue neutral cannot be determined.[1]

Not only does this statement not state the measures' estimated costs or savings, it appears to be a significant deviation from the Auditor's usual practice in attempting to quantify the fiscal impact "over several decades." There are also differences between the Initiative Petitions that would justify different fiscal note summaries. I urge the Auditor to closely examine each of the initiative petitions currently before him and adopt a fiscal note summary for each which (1) states the measure's cost or savings (2) specific to that initiative petition , and (3) within a reasonable time frame.

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[1] The Fiscal Notes, which include the Fiscal Note Summaries are available at http://auditor.mo.gov/Notes/FiscalNotes.aspx?year=2014.

The Incorrect Estimation for the Income Tax Rate Reduction

The Fiscal Note Summaries for 2014-096 to 2014-099 were largely based on two responses: the Department of Revenue and the Office of Administration, Division of Budget & Planning. Both attempt to estimate the tax collections from the new assessments and fees.

	DOR	BAP	Final Estimates
	2015		
$0.55 Equity Assessment Fee	71,200,000.00	unknown	71,200,000.00
$.034 Vapor Products Unit Assessment	unknown	552,000.00	552,000.00
$0.17 Cigarette Special Assessment	88,500,000.00	81,800,000.00	85,150,000.00
Total New Revenue Generated			
2014-96 (EAF+VPU)			71,752,000.00
2014-97, 2014-98, 2014-99 (EAF+VPU+CSA)			156,902,000.00
The Final Estimate of the Cigarette Special Asssessment is an Average of the DOR and BAP Estimates.			

The Department of Revenue suggests (for the 2014-97 to 99) measures that this increase "will result in a reduction to the individual income tax rate of .03 percent, decreasing general revenue by 206.3 million." The Department's estimate suggests they are estimating every .01 percent decrease in the income tax to equate to approximately $68.9 million dollars.

Similarly, the Office of Administration, Division of Budget and Planning estimates "each 0.1% reduction may reduce revenues by $69M or more." BAP suggests that for 2014-97 to -99, "the 'reduction factor' may be rounded up to as much as 0.3%, for a reduction of at least $207M."

Neither DOR nor BAP explain how they equate each 0.1% reduction to $69M in revenue. The Comprehensive Annual Financial Report for FY 2013, prepared by the Office of Administration and audited by you, the State Auditor, reports personal income tax revenue at

$6,374,093,816.00.[2] If you calculate the tax base, and then from that base, calculate the .1% reduction, a different number than the one put forth by BAP and DOR emerges.

Reduction Factor	
FY 2013 Income Tax Collections	6,374,093,816.00
Taxable Base (assuming 6% tax rate)	106,234,896,933.33
If the rate was 5.9%, taxable base is...	6,267,858,919.07
Difference (or .1% equates to...)	106,234,896.93

Based on the estimate that each .1% reduction equates to $106M, the tax rate would only be reduced to 5.9% for 2014-96 (for the $71.8 increase in revenues) and 5.7% for 2014-97 to 99 measures.

Office of Administration, Budget & Planning's Speculation

BAP states:

> ...the proposed subsection 27(b) requires the income tax rate to be "permanently reduced" effective the immediately ensuring tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if the collection of tobacco taxes remains stable or decreases, or if income taxes declines [sic]...It might follow that this proposal eliminates the income tax in twenty to sixty years...

(emphasis added). The speculation required to reach the conclusion that the proposed measure *could* eliminate $6 billion in revenue is evident from the language itself.

It is also based on a misinterpretation of the proposed measure. Any confusion about such language in 2014-096 to 2014-099 is clarified in 2014-118 to 2014-121. This new language completely extinguishes any possibility of the scenario described by BAP above.

[2]The Comprehensive Annual Financial Report for FY 2013, available at http://content.oa.mo.gov/sites/default/files/CAFR_2013.pdf

Fiscal Impact for 2014-118 to 2014-121

While the four measures before the Auditor are similar to the four that have previously been submitted, they are not identical. First, the measures change the assessment on VPU. BAP original estimated the sale of 24M mL of vapor products. This means there is approximately 81.2 M (.01) Fluid Ounces. At the rate of one cent, that translates to $0.812M. This change is reflected in the summary below.

	DOR	BAP	Final Estimates
		2015	
$0.55 Equity Assessment Fee	71,200,000.00	unknown	71,200,000.00
$.01 Vapor Products Unit Assessment	unknown		812,000.00
$0.17 Cigarette Special Assessment	88,500,000.00	81,800,000.00	85,150,000.00
Total New Revenue Generated			
2014-118 (EAF+VPU)			72,012,000.00
2014-119 (EAF+VPU+CSA)			157,162,000.00
2014-120 (VPU+CSA)			85,962,000.00
2014-121 (VPU)			812,000.00
The Final Estimate of the Cigarette Special Asssessment is an Average of the DOR and BAP Estimates.			

Based on the estimate that each .1% reduction in the income tax rate equates to $106M, Initiative Petitions 2014-118, 2014-120, and 2014-121 would only require a .1% reduction in the rate. Initiative Petition 2014-119 could require a .2% reduction in the income tax rate. Those reductions (due to rounding) will not equal the revenue generated, as pointed out by both DOR and BAP. The summary of the difference between the new revenue as a result of the fees or assessments and the reduced revenue as a result of a lower income tax rate is below.

	Total New Revenue Generated	Revenue Reduction due to Decreased Income Tax Rate	Difference (Potential Cost to State Government in 2015)
2014-118 (EAF+VPU)	72,012,000.00	106,234,896.93	-34,222,896.93
2014-119 (EAF+VPU+CSA)	157,162,000.00	212,469,793.86	-55,307,793.86
2014-120 (VPU+CSA)	85,962,000.00	106,234,896.93	-20,272,896.93
2014-121 (VPU)	812,000.00	106,234,896.93	-105,422,896.93

While losses in the amount of $34 to $105 million may initially sound like substantially losses, when compared with the $6.37 billion in income tax collections annually, any potential loss is quite minimal. Even the most significant loss of $105 million only equates to about a 1.65% loss of revenue in income tax collections as a result of the rate change.

	Loss Compared to Total FY 2013 Income Tax Collections (as a %)
2014-118 (EAF+VPU)	-0.53%
2014-119 (EAF+VPU+CSA)	-0.87%
2014-120 (VPU+CSA)	-0.32%
2014-121 (VPU)	-1.65%

Conclusion

Certainly any losses from the proposed measures in 2014-118 to 2014-121 are a far cry from the previous estimate of "$6 billion" over several decades. I urge you to closely examine these proposed measures and draft fiscal note summaries which (1) states the measure's cost or savings (2) specific to that initiative petition, and (3) within a reasonable time frame. A proposed statement of fiscal impact which I believe to be neither insufficient nor unfair is as follows:

> Annual state government revenue under this proposal may decrease by up to $[21 | 34 | 55 | 106] million dollars, equating to less than [1 | 1 | 1 | 2]% of total income tax revenue. The fiscal impact to local governments is unknown.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University,** and **Southeast Missouri State University.**

Fiscal Note Summary

Annual state revenue may initially decrease by $20 million to $49 million due to individual income tax revenue decreasing by more than the increased revenue from the proposal's provisions. In subsequent years, if the revenue collected from the proposal's provisions exceed those collected in the immediate preceding fiscal year, additional unknown decreases may occur.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-121)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article X. (Received January 31, 2014)

Date

February 20, 2014

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University.**

Marc Ellinger provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated an unknown fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

The individual income tax is reduced per "reduction factor" (i.e. the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected from the fees or assessments imposed). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

They defer to DOR in regard to collection amounts resulting from the assessments and/or fees imposed.

All revenues generated shall be used to reduce the individual income tax. Based on this assumption, the state school foundation formula would not be negatively impacted fiscally. However, the proposal appears to address the reduction and\or permanent elimination of the individual income tax rate. It does not appear to allow for an increase or adjustment to the individual income tax rate when the collection of assessments and/or fees are insufficient to cover the reduction factor in any previous year. This could ultimately lead to a situation where there are minimal taxes collected from individual income taxes and minimal collections from the assessments and/or fees created here, such that state revenues could be significantly diminished. This would negatively impact the state school foundation formula.

Officials from the **Department of Higher Education** indicated this proposal would not result in any costs or savings for their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased operating costs for the department will be $251,980 for fiscal year 2015, $206,774 for fiscal year 2016, and $208,925 for fiscal year 2017.

The IT portion of this fiscal impact is estimated with a level of effort valued at $41,278. This value is based on 1,512 FTE hours.

This amendment will result in a decrease in total state revenues. The increase due to the $0.01 assessment on .01 ounces of vapor product units is unknown. Any increase from this assessment will result in a reduction of the individual income tax rate, decreasing general revenue by as much as $68.8 million for each 0.1 percent rate reduction.

Currently, there are seven certified non-participating manufacturers in the state. If all are required to post bonds of $25,000, this will increase funds by $175,000.

The assessment on vapor products will increase state revenues and the income rate tax reduction will reduce state revenues. If the amendment permanently reduces individual income tax based on the increased assessments and then vapor products sales decrease, this may lead to further reductions in state revenues.

Section 26
This section permanently reduces individual income tax by the amount collected by the state from the assessments imposed in Section 27. A reduction of 0.1 percent will result in a loss of revenue of $68.8 million annually.

Administrative Impact:
Personal Tax:
Personal Tax requires programming support and forms changes. Additionally, Personal Tax needs one (1) Revenue Processing Technician I to process correspondence.

Collections & Tax Assistance:
Based on section 26, Collections & Tax Assistance anticipates additional customer contacts due to the tax rate change and adjustment notices. Collections & Tax Assistance requires two (2) Tax Collection Technicians I for additional contacts on the non-

delinquent and delinquent tax lines and one (1) Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and licenses.

ITSD-DOR:
Individual: Tax rate reduction – 504 hours

Section 27
This section proposes a new assessment of $0.01 per .01 fluid ounce of vapor product material.

In addition to the above assessment, the petition requires that any person that provides cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers be considered a manufacturer.

This amendment also requires each non-participating manufacturer to post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding quarters, it or its affiliate did not make a full and timely escrow deposit, or if it or its affiliate was removed from the state directory of any state during any of the five proceeding calendar years.

Administrative Impact:
Excise Tax:
Depending on who collects the tax, either 250 licensed wholesalers or approximately 4,500 retailers need to be notified of the provisions of this amendment. New reporting forms would need to be developed and a program would be needed to track the information.

Excise Tax requires one (1) Revenue Processing Technician I for every 3,000 returns.

New reporting forms would need to be developed, 120 cigarette wholesalers would need to be notified and changes would need to be made to cashiering functions.

Mailing costs to wholesalers and retailers:

Wholesalers:	120 x $0.555 =	$ 66.60
Retailers:	4500 x $0.555 =	$2,497.50
Total:		$2,564.10

ITSD-DOR:
Excise: New Vapor Product Excise Tax system – 1008 hours

Comments:

Section 26
This section allows for the individual income tax to be permanently reduced. However, it does not provide for any increase if in future years the revenues derived from the special assessments imposed in Section 27 decrease. It is also unclear if the rate reduction occurs

if the assessment amounts collected remain the same from year to year. The language is also vague as to who is responsible for determining whether the decrease is reoccurring.

Section 27
Although it is not stated within this amendment, the department assumes that the assessment collected within this section will be deposited into the General Revenue fund to offset the loss of funds due to the individual income tax rate reduction.

Currently, the department collects other tobacco product's tax on the manufacturer's invoice price of a product. To collect the special assessment based upon a number of ounces provides special challenges for the department.

Internet research indicates most material containing nicotine is measured in milliliters (ml) not ounces. Therefore, conversion will be needed to determine the special assessment amount based upon ounces. Additionally electronic cigarette kits contain cartridges containing small amounts of fluid (usually somewhere between 3 to 7 drops). This may be difficult to calculate the amount due.

It is also unclear if the vapor product unit must contain at least .05 ounces. It is unclear if a kit that contains two cartridges that hold less than .05 ounces is still subject to assessment. The department assumes that the assessment can be based upon a fractional part of .05 ounces. The department also assumes that if a product contains 30 ml then that would be converted to ounces and divided by .05 to determine the number of "Vapor Product Units" subject to assessment.

The language is unclear as to who would be responsible for remitting the special assessment fee, whether at the sale by the wholesaler to the retailer or at the sale by the retailer to the consumer.

If the FDA should ever regulate these products under Chapter V, they would no longer be subject to the special assessment.

There does not appear to be any penalty provisions for non-compliance. It is unclear if the person remitting the tax will be granted any collection allowances. There are no refund provisions.

The department assumes the effective date of this legislation would be upon certification of the election results by the Secretary of State. This would not allow sufficient time to make all the necessary form changes, programming changes and notifications. It is recommended that the effective date be changed to July 1, 2015. This will also reduce the burden on the wholesalers required to implement the assessment in the middle of the month.

The department assumes that the compensation allowance of 3 percent provided for in Chapter 149.021 RSMo would apply to the special assessment fee, as the fee is to be collected in the same way as other cigarette taxes. The department also assumes that as

this assessment is to be collected in the same manner as other cigarette taxes, this would allow for the credit or refund on returned stamps.

It is unclear as to where the bonds posted in Section 27(f) are to be collected will be deposited. It is also unclear as to who is responsible for holding and tracking the bonds. The department does not have the ability to determine which non-participating manufacturers have been removed from the state directory in any other state.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this initiative petition.

Officials from the **Department of Social Services** indicated since this initiative petition imposes a special assessment and provides for a reduction in the individual income tax, it has the potential to affect total state revenue. However, there is no direct fiscal impact to their department. Since the budget of any state agency is dependent upon the appropriations process, they cannot predict whether their department might be affected if this proposal were to result in a change in the total amount of general revenue available to fund state government.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated there should be no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

These proposals create, upon voter approval, additional taxes on various tobacco products.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

<u>Vapor Product Units (all versions):</u>
The proposals create an additional tax of $0.01 levied on each "Vapor Product Unit" (VPU), defined as 0.01 fl. oz. of nicotine product.

- According to a recent analysis by Wells Fargo Securities,[1] national sales of e-cigarettes will total $1.7 billion in 2013.
- BAP assumes 2% of this figure represents sales in MO, and of this, 90% is sales of VPUs, or about $32M.

[1] http://www.cnbc.com/id/100991511#_gus

- BAP assumes these sales are in the form of "cartridges" that retail for $2 each, or 16M cartridges. Also, each cartridge contains 1.5 mL of liquid, for a total of 24M mL. However, there are numerous e-cigarette products, with various amounts of fluid, offered at an array of prices for consumers to choose from.
- BAP notes that 24M mL is about 0.812M fl. oz.,[2] which implies about 81.15M VPUs are sold in MO.
- At $0.01 per VPU, this would generate about $0.8122M in additional revenues.

Cigarette Tax (versions 119 & 120):
The proposals create an additional cigarette tax of $0.17 per pack, which doubles the current rate of tax. BAP notes that cigarette tax revenues in FY13 totaled just over $86.8M. However, the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $81.8M of revenues.

Equity Assessment Fee for NPMs (versions 118 & 119):
The proposals create an Equity Assessment Fee of $0.55 per pack for the sale of Non-Participating Manufacturer cigarettes. The DOR may have an estimate of the revenue that may be generated.

Cigarette Mfg (all versions).
The proposals stipulate that any person that provides cigarette manufacturing services is deemed to be a manufacturer. This may increase revenues, to the extent that sellers of these services remit taxes based on stamped products, instead of paying any "other tobacco products" taxes they may currently be paying.

Bonds for Non-Participating Mfgs (versions 120 & 121)
These proposals require Non-Participating Manufactures to post a bond to the state of Missouri. This will increase general and total state revenues by an unknown amount.

Income Tax Reduction Factor (all versions):
The proposals require the existing rate of the individual income tax to be reduced by a "reduction factor." There are several marginal income tax rates in statute; BAP assumes this proposal refers to the top marginal rate in effect. The "reduction factor" means the percentage, rounded to the nearest tenth, but not less than 0.1%, sufficient to reduce collections by an amount equal to the annual increase in the tobacco taxes collected above. Based on 2011 Tax Year data, BAP estimates each 0.1% reduction may reduce revenues by $69M or more, depending on the rate in effect. Thus, the "reduction factor" may be rounded up to as much as 0.3%, for a reduction of at least $207M, in the first year. In subsequent years, an increase in the proposed taxes of only $1 would lead to a reduction of $69M or more.

Further, the proposal requires the income tax rate to be "permanently reduced" effective the immediately ensuing tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if income taxes decline because of economic

[2] http://www.convertunits.com/from/fluid+ounces/to/ml

conditions. It might follow that this proposal eventually eliminates the income tax so long as any of the proposed tobacco revenues continue to be collected, and increase by any amount.

Other Comments:

The reduction in income tax rates will reduce general revenues. However, it is unclear from this proposal if the new tobacco revenues will be deposited into general revenue or other dedicated funds.

Any reduction in the number of tobacco products sold may also reduce sales taxes. This would further reduce general revenues, as well as those for schools and other dedicated funds.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative petition has no fiscal impact to their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office other than if state revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be a fiscal impact to their city, as a result of this initiative petition.

Officials from the **City of Kansas City** indicated:

The proposed state assessments on non-participating manufacturer cigarettes and vapor product material would have no fiscal impact on their city. The prohibition on new local government taxes, licenses, fees or special assessments on vapor products or vapor product material could reduce their future revenue, but the amount of future lost revenue cannot be determined.

Officials from **University of Central Missouri** estimate no fiscal impact.

Officials from **Truman State University** indicated no impact.

Marc Ellinger provided the following information as a proponent of this initiative petition.

I submit the following proposed statement of fiscal impact for the four Initiative Petitions I filed on January 30, 2014, with the Missouri Secretary of State's Office, on behalf of the Initiative Petitions.

There is little cost to state or local governments based upon the proposed Initiative Petitions. The income tax rate will be reduced only upon increased revenue as a result of the additional fees or assessments in the proposed measure.

Fiscal Notes and Fiscal Note Summaries for 2014-096 to 2014-099

On January 29, 2014, the Secretary of State certified ballot titles for four other similar initiative petitions. Those petitions each received the same fiscal note summary as follows:

> Taxes and fees collected annually under the proposal are used to calculate permanent reductions to the individual income tax rate. This process over several decades could eliminate the individual income tax, which would be approximately $6 billion in annual revenue based on current collections. Whether the proposal will be revenue neutral cannot be determined.[1]

Not only does this statement not state the measures' estimated costs or savings, it appears to be a significant deviation from the Auditor's usual practice in attempting to quantify the fiscal impact "over several decades." There are also differences between the Initiative Petitions that would justify different fiscal note summaries. I urge the Auditor to closely examine each of the initiative petitions currently before him and adopt a fiscal note summary for each which (1) states the measure's cost or savings (2) specific to that initiative petition , and (3) within a reasonable time frame.

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[1] The Fiscal Notes, which include the Fiscal Note Summaries are available at http://auditor.mo.gov/Notes/FiscalNotes.aspx?year=2014.

The Incorrect Estimation for the Income Tax Rate Reduction

The Fiscal Note Summaries for 2014-096 to 2014-099 were largely based on two responses: the Department of Revenue and the Office of Administration, Division of Budget & Planning. Both attempt to estimate the tax collections from the new assessments and fees.

	DOR	BAP	Final Estimates
	2015		
$0.55 Equity Assessment Fee	71,200,000.00	unknown	71,200,000.00
$.034 Vapor Products Unit Assessment	unknown	552,000.00	552,000.00
$0.17 Cigarette Special Assessment	88,500,000.00	81,800,000.00	85,150,000.00
Total New Revenue Generated			
2014-96 (EAF+VPU)			71,752,000.00
2014-97, 2014-98, 2014-99 (EAF+VPU+CSA)			156,902,000.00
The Final Estimate of the Cigarette Special Asssessment is an Average of the DOR and BAP Estimates.			

The Department of Revenue suggests (for the 2014-97 to 99) measures that this increase "will result in a reduction to the individual income tax rate of .03 percent, decreasing general revenue by 206.3 million." The Department's estimate suggests they are estimating every .01 percent decrease in the income tax to equate to approximately $68.9 million dollars.

Similarly, the Office of Administration, Division of Budget and Planning estimates "each 0.1% reduction may reduce revenues by $69M or more." BAP suggests that for 2014-97 to -99, "the 'reduction factor' may be rounded up to as much as 0.3%, for a reduction of at least $207M."

Neither DOR nor BAP explain how they equate each 0.1% reduction to $69M in revenue. The Comprehensive Annual Financial Report for FY 2013, prepared by the Office of Administration and audited by you, the State Auditor, reports personal income tax revenue at

$6,374,093,816.00.[2] If you calculate the tax base, and then from that base, calculate the .1% reduction, a different number than the one put forth by BAP and DOR emerges.

Reduction Factor	
FY 2013 Income Tax Collections	6,374,093,816.00
Taxable Base (assuming 6% tax rate)	106,234,896,933.33
If the rate was 5.9%, taxable base is...	6,267,858,919.07
Difference (or .1% equates to...)	106,234,896.93

Based on the estimate that each .1% reduction equates to $106M, the tax rate would only be reduced to 5.9% for 2014-96 (for the $71.8 increase in revenues) and 5.7% for 2014-97 to 99 measures.

Office of Administration, Budget & Planning's Speculation

BAP states:

> ...the proposed subsection 27(b) requires the income tax rate to be "permanently reduced" effective the immediately ensuring tax year. This could be interpreted to mean that the rate of income tax is reduced every year, even if the collection of tobacco taxes remains stable or decreases, or if income taxes declines [sic]...It might follow that this proposal eliminates the income tax in twenty to sixty years...

(emphasis added). The speculation required to reach the conclusion that the proposed measure *could* eliminate $6 billion in revenue is evident from the language itself.

It is also based on a misinterpretation of the proposed measure. Any confusion about such language in 2014-096 to 2014-099 is clarified in 2014-118 to 2014-121. This new language completely extinguishes any possibility of the scenario described by BAP above.

[2]The Comprehensive Annual Financial Report for FY 2013, available at http://content.oa.mo.gov/sites/default/files/CAFR_2013.pdf

Fiscal Impact for 2014-118 to 2014-121

While the four measures before the Auditor are similar to the four that have previously been submitted, they are not identical. First, the measures change the assessment on VPU. BAP original estimated the sale of 24M mL of vapor products. This means there is approximately 81.2 M (.01) Fluid Ounces. At the rate of one cent, that translates to $0.812M. This change is reflected in the summary below.

	DOR	BAP	Final Estimates
		2015	
$0.55 Equity Assessment Fee	71,200,000.00	unknown	71,200,000.00
$.01 Vapor Products Unit Assessment	unknown		812,000.00
$0.17 Cigarette Special Assessment	88,500,000.00	81,800,000.00	85,150,000.00
Total New Revenue Generated			
2014-118 (EAF+VPU)			72,012,000.00
2014-119 (EAF+VPU+CSA)			157,162,000.00
2014-120 (VPU+CSA)			85,962,000.00
2014-121 (VPU)			812,000.00
The Final Estimate of the Cigarette Special Asssessment is an Average of the DOR and BAP Estimates.			

Based on the estimate that each .1% reduction in the income tax rate equates to $106M, Initiative Petitions 2014-118, 2014-120, and 2014-121 would only require a .1% reduction in the rate. Initiative Petition 2014-119 could require a .2% reduction in the income tax rate. Those reductions (due to rounding) will not equal the revenue generated, as pointed out by both DOR and BAP. The summary of the difference between the new revenue as a result of the fees or assessments and the reduced revenue as a result of a lower income tax rate is below.

	Total New Revenue Generated	Revenue Reduction due to Decreased Income Tax Rate	Difference (Potential Cost to State Government in 2015)
2014-118 (EAF+VPU)	72,012,000.00	106,234,896.93	-34,222,896.93
2014-119 (EAF+VPU+CSA)	157,162,000.00	212,469,793.86	-55,307,793.86
2014-120 (VPU+CSA)	85,962,000.00	106,234,896.93	-20,272,896.93
2014-121 (VPU)	812,000.00	106,234,896.93	-105,422,896.93

While losses in the amount of $34 to $105 million may initially sound like substantially losses, when compared with the $6.37 billion in income tax collections annually, any potential loss is quite minimal. Even the most significant loss of $105 million only equates to about a 1.65% loss of revenue in income tax collections as a result of the rate change.

	Loss Compared to Total FY 2013 Income Tax Collections (as a %)
2014-118 (EAF+VPU)	-0.53%
2014-119 (EAF+VPU+CSA)	-0.87%
2014-120 (VPU+CSA)	-0.32%
2014-121 (VPU)	-1.65%

Conclusion

Certainly any losses from the proposed measures in 2014-118 to 2014-121 are a far cry from the previous estimate of "$6 billion" over several decades. I urge you to closely examine these proposed measures and draft fiscal note summaries which (1) states the measure's cost or savings (2) specific to that initiative petition, and (3) within a reasonable time frame. A proposed statement of fiscal impact which I believe to be neither insufficient nor unfair is as follows:

> Annual state government revenue under this proposal may decrease by up to $[21 | 34 | 55 | 106] million dollars, equating to less than [1 | 1 | 1 | 2]% of total income tax revenue. The fiscal impact to local governments is unknown.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University,** and **Southeast Missouri State University.**

Fiscal Note Summary

Annual state revenue may initially decrease by $69 million to $105 million due to individual income tax revenue decreasing by more than the increased revenue from the proposal's provisions. In subsequent years, if the revenue collected from the proposal's provisions exceed those collected in the immediate preceding fiscal year, additional unknown decreases may occur.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-122)

Subject

Initiative petition from Tony Nenninger regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received January 31, 2014)

Date

February 20, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated this proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated the proposal would not result in any costs or savings for their department. Although there may be additional revenue available for higher education from the tax on marijuana products, the amount of those new revenues is unknown.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated:

Passage of this proposal may result in the release of offenders who are incarcerated for felony marijuana offenses or probation/ parole violators who have been returned to prison for misdemeanor or local ordinance marijuana offenses. This may have a positive fiscal impact in that it may reduce both the incarcerated population and the population supervised by Probation & Parole (P&P). Each day an offender is not incarcerated results in a cost avoidance of $18.01 in incarceration costs while P&P per diems are $5.07 per offender.

This legislation could also have an unknown operational impact in that it allows for the expungement of marijuana offenses from offender records. This may result in an additional workload for the institutional Records Office staff as they are the custodians of

the offender records; however, it is not anticipated that the increased workload will be significant.

The petitions states it is not intended to "amend or affect in any way state or federal law pertaining to employment matters." While this will arguably provide some protections for the department to continue to test employees for marijuana, there is some ambiguity in the language or alternative interpretations of the language that may impede the department testing employees for marijuana use/impairment. There may be an unknown operational impact on the safety and security of the prisons if the department is not allowed to test their staff for marijuana usage.

Passage of this proposal into law would have an unknown fiscal impact for their department, an impact which is assumed to be fiscally positive.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated increased costs would be $36,691 for fiscal year 2015, $0 for fiscal year 2016, and $0 for fiscal year 2017.

This would allow for additional businesses to become retailers of medicinal and recreational cannabis.

The IT portion of this fiscal impact is estimated with a level of effort valued at $36,691. This value is based on 1,344 FTE hours.

Based on a 25 percent excise tax, this legislation creates an unknown, positive impact on total state revenue.

If passed by voters, this petition would increase state revenues.

This petition legalizes, regulates and taxes the use of marijuana for medicinal and recreational purposes. This petition would impose an excise tax on the first fair market sale of marijuana produced at a rate of 25 percent of the purchase price. The Division of Alcohol and Tobacco Control and the General Assembly have the responsibility to establish rules, regulations, and laws to provide for collection of the excise tax.

The amendment requires the Department of Health and Senior Services and Division of Alcohol and Tobacco Control to make, administer, and enforce rules and regulations not inconsistent with this section.

Administrative Impact:
Tax: New Excise Tax System 1,344 hours

Officials from the **Department of Public Safety** indicated the following fiscal impact:

Division of Alcohol and Tobacco Control (ATC)

Costs would increase by $5,634,921 in FY 2015, $4,718,729 in FY 2016, and $4,778,049 in FY 2017. Excise tax and licensing fees could be $217,500,000 in FY 2016 and FY 2017.

ATC will need to provide office space across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the State of Colorado, which just legalized recreational marijuana.

It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years. ITSD has been contacted and will be submitting a more detailed response to this item.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on total state revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $187,500 million in excise tax collections if tax rates are 25%. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 2,500 people, 6.022 million Missouri population) of 2,400 obtain licenses, plus possibly 600 producers or distributors, there will be 3,000 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $30 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

This initiative petition allows for citizens twenty-one years of age or older to engage in the productions, sale, distribution and consumption of marijuana and hemp. It defines terms and concepts in the bill, including what "Fair Market Sale" means and the personal and household exemptions. It also defines that in this bill, the mention of "Division" means the Division of Alcohol and Tobacco Control.

The language in the bill sets up a new program that puts ATC in charge of the monitoring, regulation and collection of excise taxes and license fees, from the production of and sells of marijuana, similarly as to the system that is currently used to regulate the Alcohol Industry.

The petition was extremely hard to read, but the division compared the major provisions to the portion of HB1659, Section 195.850, and they were very similar.

The division is requesting approximately $5.6 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be approximately $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using bar codes and/or tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of bar codes and/or tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Staff Attorney and 1 Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

It is unclear what the local impact will be to cities and counties.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This initiative petition creates Article I, Section 35(a) in the Missouri Constitution. This petition:

- Legalizes the production, sale, distribution, and consumption of marijuana and hemp.
- Legalizes the possession of marijuana, marijuana products, marijuana concentrates, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.
- Legalizes the cultivation of marijuana for medical needs as recommended by a physician.

- Legalizes the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allow the General Assembly to enact an excise tax at a rate of twenty-five percent on the fair market sale of marijuana and industrial hemp produced in the state.
- Require the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2015 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Fee schedules
    - Advertisement regulation
- Require the Department of Health and Senior Services to adopt regulations necessary for implementation by June 15, 2015 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act, and calls for the release of any offenders who offenses are no longer illegal under this act to be released from custody.
- Does not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Forbid any individual or property owner from prohibiting marijuana within their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

Summary of Fiscal Impact

The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act. The Department of Public Safety, Division of Alcohol and Tobacco Control and the Department of Health and Senior Services are given the authority to promulgate rules to implement this section. Those rules could result in a fiscal impact for those agencies. The Department of Revenue could also see increased costs resulting from the collection of excise and sales taxes and compliance with those taxes.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's general revenue fund. The petition requires the general assembly to appropriate the revenue as follows:

1. All funds the General Assembly deems necessary for the division of alcohol and tobacco control within the department of public safety to carry out any obligations created by the petition or laws operating under this section, and may establish a reserve fund for such obligations.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 25% for state and local law enforcement and firefighter pensions
    b. 25% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for cities and counties
    e. 15% for public institutions of higher education or for scholarships to attend such institutions

Further B&P assumes that the retail sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the State Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. The officials said they are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County

Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$279.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund

Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$1.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$102.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest		

Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated the proposed legislation has no impact to their agency beyond existing appropriations.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

This petition includes a provision requiring an agency to submit rules and regulations to implement certain requirements. The fiscal impact for this fiscal note to the Secretary of State's office for Administrative Rules is less than $2,500.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have some impact on the State Public Defender System. In Fiscal Year 2013 the State Public Defender provided representation in an estimated 3,315 marijuana cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of any recognized standards. Removing these cases would assist

public defenders by providing some caseload relief, moving toward more recognized standards.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated there is not expected to be any fiscal impact to their city, as a result of this initiative petition.

Officials from the **City of Kansas City** indicated they are unable to estimate the increase in sales tax revenues or the increase in costs that this initiative petition would generate. Their city would incur substantial administrative costs in expunging and destroying thousands of conviction records for marijuana-related offenses. Additionally, it is anticipated that their municipal court would be clogged significantly with applications for expungement. There would be no savings.

The State Auditor's office did not receive a response from the **Department of Health and Senior Services,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, and St. Louis Community College**.

Fiscal Note Summary

State government expects $1 million in startup costs and annual operating costs starting at $4.8 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase could possibly exceed $217 million. The fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-127)

Subject

Initiative petition from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149. (Received March 11, 2014)

Date

March 31, 2014

Description

This proposal would amend Chapter 149, RSMo.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Charles A. Arnold provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated:

The proposal would artificially deem the payment of a new tax as compliance with the state's tobacco escrow laws. However, while such taxes would be deemed compliance with state law, it would not be deemed compliance with certain conditions of the Tobacco Master Settlement Agreement (MSA). The MSA is a contractual agreement between the state and certain tobacco product manufacturers, the terms of which cannot be altered or avoided by statute. Accordingly, the result of the proposal would be that certain tobacco product manufacturers would be deemed in compliance with state law even though they had not in fact complied with state law.

Because certain tobacco product manufacturers would be able to avoid actual compliance with existing state laws, the state would be powerless to diligently enforce its existing state laws on this subject, which enforcement is necessary to avoid a substantial reduction in annual MSA payments known as the "NPM adjustment." Although it is impossible to predict with precision the exact amount of future NPM adjustments, it could be up to the full amount of Missouri's annual MSA payment (approximately $130 million annually at present). However, as disputes over annual NPM adjustments are presently being resolved several years in arrears, NPM adjustments incurred in the current and immediately upcoming fiscal years may not actually be realized until several years into the future.

In sum, the proposal would result in a substantial loss of state revenue, in perpetuity, in the form of either a substantial reduction or possible elimination of the state's annual MSA payments, though the precise amount of loss and the exact fiscal year in which such loss would first be realized cannot be accurately predicted at this time

As noted, the proposal would change the manner in which tobacco manufacturers can comply with certain state laws, but would not eliminate the existing requirements nor the AGO's obligation to enforce them. Moreover, the proposal would not adjust any of the AGO's other duties and obligations under the MSA or related state laws. Accordingly, the AGO would not realize any savings from the proposal but assumes that any increased costs for the AGO associated with the proposal could be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

Tobacco Master Settlement Agreement

FY 2014 estimated allocations of revenues from the Tobacco Master Settlement Agreement are summarized below:

Estimated Tobacco Master Settlement Agreement	$59,800,000
Allocations	
Life Science Research	$15,000,000
ECDEC	$35,000,000
HFTR	$9,800,000
	$59,800,000

The $35 million portion allocated to ECDEC (Early Childhood Development Education and Care Fund) is further allocated to DESE and the Dept of Social Services.

As indicated in the chart below, DESE uses these funds for First Steps, PAT, MPP, and Early Childhood Special Education. Any decrease in funding to the master settlement agreement will likely result in a reduction to these programs.

	FY 2014
First Steps	$578,644
Foundation - Parents as Teachers	$5,000,000
Foundation - Early Childhood Spec. Ed	$7,412,900
MPP	$11,754,429
	$24,745,973

Tobacco Tax Revenues

A query of SAM II revealed the following revenues from the cigarette tax revenue code (1057):

	FY 2014
Health Initiatives Fund	$20,432,467
State School Moneys Fund	$45,973,051
Fair Share Fund	$20,432,467
St. Louis County Cigarette Tax	$3,155,725
Jackson County Cigarette Tax	$2,316,945
	$92,310,655

Specific to DESE's budget are the revenues in the State School Moneys fund and the Fair Share fund totaling $66,405,518.

This proposal will likely have an impact on these revenues; however, the officials said they have no means to calculate such impact. They deferred to another agency regarding the extent of any impact to tobacco tax revenues as a result of this proposal.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact to their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated the proposal will have no fiscal impact on the department, but it will impact state revenues.

Based upon information reported for 2013, there were 10.29 million sticks of cigarettes stamped for sale in Missouri. Imposing an additional tax of $0.015 per stick would generate $154 million annually. The department cannot provide an estimate for the amount of revenue that would be generated on Roll-Your-Own as the tax is imposed on the manufacturers invoice price and this information is not tracked.

Although the tax established within this petition will increase revenues, the state may lose by as much as $135 million annually if it can no longer comply with the terms of the Master Settlement Agreement.

The petition increases state revenue. However, the increased tax may reduce sales, eventually reducing revenues. The state may also lose revenues that would have been received from the Master Settlement Agreement.

The petition proposes a tax on the sale of cigarettes and roll-your-own (RYO) tobacco equal to one and one-half cents per cigarette and 10.25 percent of the manufacturer's invoice prices on the RYO tobacco products. However, as a result of this petition, the state may not be in compliance with the Master Settlement Agreement, which may result in a loss of revenues up to $135 million annually.

Administrative Impact:
Currently, tobacco product manufacturers must comply with the Master Settlement Agreement, under which they are required to become a participating manufacturer (PM) and perform financial obligations under the Master Settlement Agreement or place funds in an escrow account based upon units sold in the state. Under sections 196.1020 to 196.1035, PM's are required to certify their brands each year to the department in order to be placed in the state tobacco directory.

RYO tobacco is taxed in the same manner as other tobacco products at 10 percent of manufacturers invoice price before discounts and deals. The additional tax being imposed only applies to RYO tobacco. This will require new reporting forms and schedules to separate RYO tobacco from other tobacco products.

Notification of the tax increase and changes to the reporting of RYO tobacco will need to be sent to 250 licensed cigarette and other tobacco product wholesalers.

The additional tax being imposed on cigarettes will require changes to the decal ordering form, minor changes to the accounting system and changes to the cashiering procedures.

NPMs making escrow deposits on April 15, 2014 for 2013 sales are expected to place an amount based upon $0.0299790 a stick into escrow.

Comments:

If the initiative petition becomes law, Non Participating Manufacturers (NPM) would not be required to make the escrow payments required by the Master Settlement Agreement. This would mean the state would not comply with the terms of the agreement which likely would result in the potential loss of the settlement payments from Participating Members.

Subsection 149.018.1 provides that a tobacco product manufacturer shall have been deemed to meet all the Chapter 196 requirements for cigarettes & Roll-Your-Own (RYO) tobacco when the additional tax of $0.015 per cigarette (30 cents per pack of 20) or the additional tax of 10.25% on RYO tobacco is levied upon the sale.

The department assumes this means that an additional tax will be imposed upon all cigarettes & RYO tobacco and therefore all tobacco product manufacturers shall be deemed to meet the requirements of 196.1003 and 196.1020 to 196.1035 without having to either place funds into escrow or making payments under the agreement Participating Manufacturers (PM), will not have to annually certify their brands.

If PM's were required to make payments under the Agreement, the initiative petition would still put the PM's at a disadvantage compared to non-participating manufacturers (NPM) because both PM and NPM cigarettes would have the additional tax on them.

Unless section 196.1023 is repealed, the department will still be required to maintain the tobacco directory. Thus, the department would still need the ability to require tobacco manufacturers to provide a list of their brands each year. The department suggests language be added that would require the filing of brand reports by tobacco product manufacturers or add language to 149.018 so the director may promulgate rules for administration of this section.

Subsection 149.018.2 imposes the additional tax on cigarettes & RYO tobacco but does not designate where the funds are to be deposited. Subsection 3 does state that the additional tax is to be collected in the same manner as the current taxes imposed under Chapter 149, however the current cigarette taxes are deposited into three separate funds by statute (Health Initiatives, Fair Share and the State School Moneys Fund) and the tax on RYO tobacco is deposited into the Health Initiatives Fund by statute. Clarification is needed on where the additional revenue being imposed is to be deposited.

Subsection 149.018.3 requires the additional taxes be collected in the same manner as the current tax imposed upon the sale of cigarettes & RYO tobacco. The department assumes this would then include any allowances currently allowed as well as refunds.

If the tax being imposed applies to current inventories of stamped cigarettes and un-affixed stamps, then the current stamps may be used. However, this would require language providing for a floor stocks tax.

New stamps would be required to be designed and purchased. Because cigarette stamps for the entire fiscal year are purchased prior to beginning of a fiscal year, there may not be adequate funds budgeted for the purchase of additional stamps. This legislation is to be put to a vote of the people on Nov 4, 2014 and would become effective upon certification of the votes cast. If new stamps are needed, there may not be sufficient time to obtain them prior to the probable effective date of January 1, 2015.

Please note this does not include retailers. The department is not sure how all retailers would be reached as they are not required to be licensed. The department recommends that the following language be added:

> Each licensed wholesaler shall make a final actual inventory of all stamped cigarettes and all unapplied stamps in the licensee's possession. This final actual inventory shall be taken at the end of the day prior to the effective date of the tax increase and shall be certified to the department within 10 days. The director shall discontinue selling stamps to any licensee that fails to certify the actual inventory within the 10-day period and will resume selling when the certification is received.
>
> The increased tax amount shall apply to the final actual inventory and payment of the additional amount shall be paid within sixty days of the effective date of the tax increase. The director shall discontinue selling stamps to any licensee that

fails to remit the additional amount due within the 60-day period and shall assess the licensee for the additional tax due.

The increased tax amount shall apply to all stamps sold by the department beginning on the effective date of the new tax increase.

For a period up to six months prior to the effective date of a tax increase, each licensee shall not be allowed to purchase stamps in an amount greater than 110 percent of the amount that was purchased during the same period during the previous year.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to the department. Since the budget of any state agency is dependent upon the appropriations process, the department cannot predict whether the department might be affected if this proposal were to result in a change in the total amount of General Revenue available to fund state government.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal creates, upon voter approval, additional taxes on cigarettes and roll-your-own tobacco products. IP 14-127 lets tobacco product manufacturers meet the requirements of the Master Settlement Agreement (MSA) through paying increased sales taxes. IP 14-128 allows tobacco product manufacturers the choice of paying increased sales taxes on tobacco products or paying the required amounts into the MSA. IP 14-129 eliminates the MSA and increases the tax on tobacco products. Below are estimates of the increased revenue to the state from the increased tax on tobacco products.

The MSA has provided the following revenue to the state by year over the last three years: FY 2011-$132.6M, FY 2012-$135.2M, FY 2013-$135.2M. The estimate of revenues from the MSA in FY 2014 is $59.8M. Funds from the MSA are used to support the Early Childhood Development and Education Fund, the Life Sciences Research Trust Fund and the Healthy Families Trust Fund.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

Cigarette Tax (all versions)

The proposals create an additional cigarette tax of $0.30 per pack of twenty. BAP notes that cigarette tax revenues in FY13, at $0.17 per pack of twenty, totaled just over $86.8M. If the number of packs sold remains constant, this would generate over $153M in additional revenues. However it is likely the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $141.2M of revenues.

Tax on Roll-Your-Own Tobacco Products

These proposals create an additional tax of 10.25% of the invoice price on Roll-Your-Own Tobacco products. While these products are currently taxed as an "Other Tobacco Product," BAP does not have data on what portion of "Other" products may be subject to additional tax under this proposal. BAP notes that "Other Tobacco Product" revenues in FY13, at 10% of the invoice price, totaled just under $16.9M.

These proposals amend Chapter 149. BAP assumes the new revenues above would be deposited to the credit of the State Schools Money Fund, pursuant to RSMo. 149.065.

BAP also notes this proposal may make changes to Missouri's participation in the Master Settlement Agreement. The Attorney General may be able to provide additional information on this issue.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on the State Public Defender System other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Cole County** indicated they cannot determine the fiscal impact of this initiative.

Officials from the **City of Kansas City** indicated they are unable to estimate the fiscal impact of the initiative petition.

Officials from the **City of Raymore** indicated no fiscal impact.

Charles A. Arnold provided the following information as a proponent of this initiative petition.

Initiative Petitions 2014-127; 2014-129

Subject

Initiative petition 2014-127 and 2014-129 from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149, Tobacco Excise Tax.

Date

March 17, 2014

Description

This proposal would amend Chapter 149 of the Missouri revised statutes.

The amendment is to be voted on in November 2014.

The amendment would be effective January 1, 2015

Assumptions

The petitions propose to increase the current excise tax paid on all cigarettes sold in Missouri by .015-cents per cigarette (30-cents per pack of 20 cigarettes). The petitions also impose a tax on the manufacturers invoice price, before discounts and deals, of .1025% on roll-your-own tobacco.

The average price of a pack of 20-cigarettes in Missouri is $4.30 per pack (including the current $.17 per pack cigarette excise tax)[1].

The proposed increase will result in an approximate 7% increase in the average price of a pack of 20-cigarettes sold in the state, causing a slight downward adjustment in total annual cigarette pack sales of approximately 2.8%.[2]

According to information submitted by the Missouri Department of Revenue in response to Auditors information request on note 14-099, there were 536.5 million packs of cigarettes sold in the state of Missouri during 2012.

It is assumed that wholesalers licensed by the Missouri Department of Revenue will receive the 3 percent discount established in Chapter 149, RSMo.

The proposed change in compliance standards could result in a reduction of "between 21% and 100% of the $130 million Tobacco Settlement payment" [3] that Missouri receives annually. Missouri was recently deemed non-compliant by a national arbitration panel for calendar year 2003 over an NPM Adjustment dispute. The result of that decision is an approximate $70 million reduction in the states $130 million annual tobacco settlement payment for 2014.

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[1] *"The Tax Burden on Tobacco, Vol. 46"*, Page 186.

[2] "TobaccoFreeKids.org Facts Sheet 0281", Page 1, Paragraph 2

[3] *Missouri Attorney General Chris Koster letter to Senator Kurt Schaefer*, January 9, 2013. Page 1, Paragraph 2.

Table 1- Calculation of the downward sales adjustment due to the tax increase	
Total packs sold in Missouri 2012	536,500,000
Downward adjustment due to tax increase (2.8% sales reduction)	-15,022,000
Total packs sold after downward adjustment applied	521,478,000

Table 2- Calculation of total new revenues derived from the new tax	
Total packs sold after downward adjustment applied	521,478,000
Additional excise tax per pack of 20-cigarettes (30-cents per pack)	x .30
Total new revenues (gross) derived from the additional excise tax	$ 156,443,400.00

Table 3- Calculation of adjustments to new revenues derived from the new tax	
Total new revenues (gross) derived from the additional excise tax	$ 156,443,400.00
Less: 3% tax stamping allowance per Chapter 149	-$ 4,693,302.00
Net New Revenue	$ 151,750,098.00

Summary

The additional tax proposed by initiative petitions 2014-127 and 2014-129 will generate approximately $151.8 million in net new cigarette excise tax revenue annually.

However, if tobacco settlement payment reductions due to the compliance change contemplated by these petitions are applied to future tobacco settlement payments, net new cigarette excise tax revenues could be affected periodically.

If the maximum reduction for a non-compliant determination is applied, such a reduction could result in no more than 100% of the states annual tobacco settlement payment of $130million in any given year.

Thus, the net affect on new cigarette excise tax revenues generated by these proposals in years where a tobacco settlement payment reduction is applied produces a range of between $21.8million to $151.8million in new cigarette excise tax revenues.

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

January 9, 2013

The Honorable Kurt Schaefer
State Senator, District 19
State Capitol, Room 221
Jefferson City, Missouri 65101

RE: Notice of Possible Revenue Reduction Due to Arbitration of 2003 Master Settlement Agreement (Tobacco Settlement) Payment Dispute

Dear Senator Schaefer:

For many years now, Governor Nixon and I have warned the General Assembly in writing about the need to enact two new pieces of legislation to close the loopholes in Missouri's Tobacco Settlement Agreement Act. One of those laws required eight years to pass (leaving Missouri unprotected during a critical period now in arbitration). The other has never been passed (making Missouri the only State in the nation to have made such a policy determination).

Today, as counsel for the State, I am alerting you to the potential consequences of inaction by your predecessors in the General Assembly. Due to Missouri's delay or failure to pass these two key pieces of legislation, there is now an even chance that Missouri will forfeit between 21% and 100% of the $130 million Tobacco Settlement payment the State previously received for calendar year 2003. To repay that obligation, any forfeiture will be automatically deducted from the $130 million (projected) Tobacco Settlement payment Missouri anticipates receiving in April 2014. The purpose of this letter is to bring this serious risk to Missouri's FY 2014 consensus revenue estimate to your attention.

In 1998, Missouri and 45 other States signed the Master Settlement Agreement (Tobacco Settlement) with several tobacco companies, known as "Participating Manufacturers." The States agreed to dismiss their pending lawsuits against the Participating Manufacturers for the healthcare costs associated with tobacco in exchange for perpetual payments from the Participating Manufacturers in excess of $6 billion per year, 2.27% of which (approximately $130 million per year) is allocated to Missouri.

As part of the Tobacco Settlement, every State agreed to enact a model escrow statute requiring Non-Participating Manufacturers—cigarette manufacturers that did not sign the Tobacco Settlement—to make annual escrow deposits roughly proportional to the Participating Manufacturers' annual Tobacco Settlement payments. The escrow statute served two purposes: it required Non-Participating Manufacturers to set aside sufficient funds to satisfy any future judgments the States might someday obtain against them, and it furthered the public health goals of the Tobacco Settlement by denying Non-Participating Manufacturers a market advantage over the Participating Manufacturers. The States further agreed to give the Participating Manufacturers a treble credit for any market share they lost to the Non-Participating Manufacturers should the States fail to "diligently enforce" their escrow statutes.

After the Tobacco Settlement was signed, Missouri and the other States identified several loopholes in the model escrow statute that made enforcement difficult. For example, more than half of the Non-Participating Manufacturers' cigarettes sold in Missouri in 2003 were manufactured by Native American tribes or foreign (offshore) companies that failed to make the necessary escrow deposits. States were unable to force tribal manufacturers to deposit the escrow they owed because Native American tribes are entitled to sovereign immunity in the nation's courts, including those in Missouri. Nor were States able to ensure the necessary deposits from offshore manufacturers due to the extraordinary difficulty in obtaining service of legal process outside the borders of the United States.

Working with the Participating Manufacturers, the States proposed a series of legislative solutions to these common enforcement problems. The first of these solutions, called "Complementary Legislation," required any Non-Participating Manufacturer selling cigarettes into the adopting State to have a registered agent in the State to receive service of process. It also allowed the adopting State to maintain a directory of Non-Participating Manufacturers that made the necessary escrow deposits and, more

importantly, to ban all other Non-Participating Manufacturers from that State's markets.

Then-Attorney General Nixon first proposed Complementary Legislation to the Missouri General Assembly in 2002, and subsequently proposed the same legislation every year thereafter. Despite those persistent requests, Missouri did not enact Complementary Legislation until 2010. Missouri was the last State in the country to pass this legislation, by many years.

The second legislative solution, called "Allocable Share Release (ASR) Repeal," prevented Non-Participating Manufacturers from avoiding their full escrow obligations by concentrating their sales in only a few States. ASR Repeal was first proposed to our General Assembly by then-Attorney General Nixon in 2002 and every year thereafter until he became Governor. Since I assumed the Office of Attorney General, I too have implored the General Assembly to pass ASR Repeal in each of the last four years. Despite the persistent pleas of two Attorneys General over ten years, Missouri remains the ***only*** State in the nation not to enact ASR Repeal.

Missouri is now engaged in a nationwide arbitration between more than 20 Participating Manufacturers and 46 States to determine whether the Participating Manufacturers are entitled to treble damages for their market share loss in calendar year 2003. The attorneys in my office have worked aggressively for more than two years to prevent Missouri from having to pay any part of these damages, presenting Missouri's best defense before three federal judges empanelled to decide the arbitration. However, past General Assemblies' delay in passing Complementary Legislation and their decision not to pass ASR repeal have significantly hindered Missouri's defense and made it all but impossible for Missouri to reach a settlement with the Participating Manufacturers.

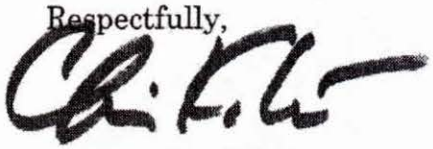
If the Missouri General Assembly had acted to pass Complementary Legislation when then-Attorney General Nixon first proposed it, Missouri would have been able to obtain service of process on foreign Non-Participating Manufacturers that, under the terms of the legislation, would have been forced to identify a registered agent within the borders of our State. Complementary Legislation would also have banned sales by Native American Non-Participating Manufacturers that failed to deposit the required escrow. Both of these enforcement issues are central to the case presently before the arbitration panel.

A number of States have negotiated a potential settlement of the Participating Manufacturers' claims for market share losses from 2003 through 2012. Unfortunately for Missouri, the passage of ASR Repeal is a necessary condition of the proposed settlement agreement. As Missouri is the only State that has refused to pass ASR Repeal, the General Assembly's policy choice effectively prevents Missouri from joining with other States to settle nine years' worth of potential losses with the Participating Manufacturers.

Furthermore, because Missouri was unable to ensure the necessary escrow deposits by foreign and tribal manufacturers in calendar year 2003 due to prior General Assemblies' decisions not to enact Complementary Legislation until 2010, and because we cannot settle the current arbitration under the proposed settlement terms in the absence of ASR Repeal, the Participating Manufacturers' claim against Missouri to recoup part or all of their 2003 Tobacco Settlement payment ***will*** go to verdict sometime next fall.

The Office of Attorney General advised your predecessors every year for the last decade that their legislative inaction could eventually harm the State. While we hope our legal defenses will be successful, we estimate an even chance that the arbitration panel will find Missouri did not "diligently enforce" its escrow statute in 2003 because the State lacked the enforcement tools that Complementary Legislation would have provided. If the panel rules against Missouri, this State will forfeit between 21% and 100% of the $130 million Tobacco Settlement payment the State previously received for calendar year 2003. That forfeiture will be deducted from the $130 million (projected) payment Missouri anticipates receiving in April 2014. As counsel for the State, I am therefore formally putting this General Assembly on notice of that possibility and advising you to budget accordingly.

Respectfully,



CHRIS KOSTER
Attorney General

cc: Mike Price, House Appropriations
Adam Koenigsfeld, Senate Appropriations

STATE CIGARETTE TAX INCREASES: EXPLANATIONS AND SOURCES FOR PROJECTIONS OF NEW REVENUES & BENEFITS

The economic model developed jointly by the Campaign for Tobacco-Free Kids (TFK) and the American Cancer Society Cancer Action Network (ACS CAN) projects the increase in state revenues, public health benefits, and health care cost savings resulting from increases in state cigarette tax rates. The projections are based on economic modeling by Frank Chaloupka, Ph.D., and John Tauras, Ph.D., at the Institute for Health Research and Policy at the University of Illinois at Chicago and are updated annually.

The projections indicate that cigarette tax increases boost state cigarette tax revenues and reduce smoking. When cigarette tax rates are increased by significant amounts, the higher amount of tax collected per pack generates more new revenue than is lost from the decline in pack sales caused by a decline in consumption or increased smoker tax avoidance prompted by the price increase. The projections are based, in part, on research findings that a 10 percent cigarette price increase, if maintained against inflation, reduces youth smoking rates by 6.5 percent or more, adult smoking prevalence by 2 percent, and total consumption by 4 percent.[1 2 3]

The projections are fiscally conservative because they include generous adjustments for lost state pack sales and the corresponding loss of state revenue caused by tax avoidance and tax evasion. For the purposes of our modeling, tax avoidance includes informal smuggling by individual smokers, such as obtaining lower-taxed or untaxed cigarettes either legally or illegally across state lines, from multistate internet sellers, from tribal vendors not subject to state taxes, or from other sources. Tax evasion refers to organized criminal smuggling activity.[4] Despite such practices, cigarette tax increases generate new revenue and reduce smoking rates, which, in turn, reduce smoking-caused disease, deaths, and related economic costs.

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[1] Chaloupka, FJ, "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine & Tobacco Research*, 1999, and other price studies at http://tigger.uic.edu/~fjc.

[2] Tauras, J, et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," Bridging the Gap Research, ImpacTeen, April 24, 2001, and other price studies at http://www.impacteen.org.

[3] Chaloupka, FJ & Pacula, R, "The Impact of Price on Youth Tobacco Use," Chapter 12 in National Cancer Institute, Smoking and Tobacco Control Monograph 14, *Changing Adolescent Smoking Prevalence*, November 2001; International Agency for Research on Cancer (IARC), *Effectiveness of Tax and Price Policies for Tobacco Control*, IARC Handbooks of Cancer Prevention in Tobacco Control, Volume 14, 2011.

[4] Farrelly, M, et al., "Cigarette Smuggling Revisited," U.S. Centers for Disease Control & Prevention (CDC), in press, and Farrelly, M, et al., *State Cigarette Excise Taxes: Implications for Revenue and Tax Evasion*, RTI International, 2003, http://www.rti.org/pubs/8742_Excise_Taxes_FR_5-03.pdf.

Econometric studies indicate that cigarettes and other tobacco products are substitutes for one another, meaning if cigarette taxes/prices are increased while other tobacco product taxes/prices remain unchanged, some of the reductions in cigarette smoking would be offset by increases in the use of other tobacco products.[5] Equalizing the tax rates on other tobacco product taxes would reduce this potential substitution, as well as reduce the use of other tobacco products, while at the same time generate additional revenue.

These projections incorporate the impact of annual background declines of 2 percent on adult and future youth smoking prevalence and 2.5 percent on pack sales, as well as changing pack prices. The background decline is the annual reduction in cigarette use that would be expected to occur without any changes in the tax rate due to other tobacco control policies, changing social norms, and a changing tobacco product landscape. It is calculated based on trends in recent years and current activity. Smoking and pack sale declines in any particular state will vary depending on its existing smoking rates, pack prices, and other tobacco prevention, cessation, and industry activities. To be even more conservative, the projected amounts have also been rounded down.

Despite all of these adjustments to avoid over-estimates, the projections still show that measurable state cigarette tax increases will both significantly reduce smoking levels and substantially increase state revenues. The increased tax per pack will still bring in more new state revenue than is lost from the decrease in the number of packs sold caused by consumption declines, tax avoidance, and smuggling resulting from the tax increase. In those states that apply their sales tax percentage to the total retail price of a pack of cigarettes (including the state cigarette tax amount), a cigarette tax increase will raise state sales tax revenues per pack, which will offset sales tax revenue losses from fewer packs being sold. In addition, smokers who quit or cut back will likely spend the money they previously spent on cigarettes largely on other goods on which sales tax is collected, which further increases state sales tax revenues.

These projections assume that the tax increase is fully passed on to the consumer in higher prices, and keeps up with inflation over time, which is consistent with economic research on the impact of cigarette taxes on cigarette prices.[6] [7] [8] If a tax increase is not fully passed on in the form of higher prices, but is instead partially absorbed by the industry, then the reductions in smoking and its consequences in response to the tax increase will be smaller, while the revenues generated from the tax increase will be larger. Alternatively, if cigarette companies use the tax increase as an opportunity to raise net-of-tax prices and the tax increase is more than passed on, then the reductions in smoking and its consequences will be larger, while the increase in revenues will be smaller.

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[5] Chaloupka, FJ & Warner, KE, "The Economics of Smoking," in Culyer, AJ & Newhouse, JP, eds., *Handbook of Health Economics*, Amsterdam: North-Holland, 2000.

[6] U.S. Department of Health and Human Services (HHS), *Reducing Tobacco Use: A Report of the Surgeon General,* Atlanta: HHS, CDC, National Center for Chronic Disease Prevention & Health Promotion, Office on Smoking and Health, 2000.

[7] Chaloupka, et al., 2000.

[8] HHS, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General,* Atlanta: HHS, CDC, National Center for Chronic Disease Prevention & Health Promotion, Office on Smoking and Health, 2012.

The starting price per pack (before the proposed cigarette tax increase) used in these projections includes all federal and state excise and sales taxes and, where applicable, local taxes (i.e., New York City's $1.50 per pack tax is factored into the overall New York State price per pack). The prices are based on data from *The Tax Burden on Tobacco*, 2012,[9] reports of state cigarette tax increases, media reports on tobacco company price changes, the USDA Economic Research Service, the U.S. Bureau of Labor Statistics (for inflation adjustments), and the U.S. Federal Trade Commission's *Cigarette Report for 2011*[10] (to adjust prices for retailer-based discounts, promotions, and coupons). The projections assume that the state will follow standard practice and apply the cigarette tax increase to all previously tax-stamped or otherwise tax-paid cigarettes held in inventory by wholesalers or retailers on the effective date of the increase. Failing to tax such cigarettes held in inventory would open the door to massive pre-increase stockpiling by retailers and wholesalers to evade the increase, delaying and reducing the amount of new state revenues.

The projected adult and youth smoking and smoking-harmed birth declines, and related mortality reductions are calculated by applying the above findings regarding the effects of tax and price increases to the number of current adult smokers in each state and to estimates of the number of youth (under 18 years old) alive today in each state who will become adult smokers and the number projected to die from smoking.[11] [12] [13] [14]

The projected five-year savings from fewer smoking-caused heart attacks and strokes, fewer smoking-affected pregnancies and related birth complications, and fewer lung cancer cases show just some of the many substantial savings from the smoking reductions prompted by a tax increase that begin to accrue immediately. The projected five-year lung cancer cost savings as a result of adult smokers quitting due to the tax increase takes into account the relative risk of developing lung cancer among quitters and the number of lung cancer deaths attributable to smoking.[15] [16] These savings will increase steadily in subsequent years. The projected five-year smoking-affected pregnancy and birth savings accrue from declines in smoking among pregnant women and corresponding reductions in smoking-caused birth

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[9] Orzechowski and Walker, *The Tax Burden on Tobacco, 2012*, 47, Arlington, VA: Orzechowski and Walker, 2013.

[10] Federal Trade Commission, *Federal Trade Commission Cigarette Report for 2011*, May 2013. Available at http://www.ftc.gov/reports/federal-trade-commission-cigarette-report-2011.

[11] CDC, "Smoking During Pregnancy—United States, 1990-2002," *Morbidity and Mortality Weekly Report (MMWR)* 53(39):911-915, October 8, 2004, http://www.cdc.gov/mmwr/PDF/wk/mm5339.pdf.

[12] CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States 1995-1999," *MMWR* 51(14):300-03, April 11, 2002, www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm.

[13] CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States 2000-2004," *MMWR* 57(45):1226-1228, November 14, 2008, http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm.

[14] CDC, "Projected Smoking-Related Deaths Among Youth—United States," *MMWR* 45(44):971-974, November 11, 1996, http://www.cdc.gov/mmwr/preview/mmwrhtml/00044348.htm, for data on relative death risks of smokers, nonsmokers, and former smokers.

[15] Chang, S, et al., "Estimating the cost of cancer: results on the basis of claims data analyses for cancer patients diagnosed with seven types of cancer during 1999 to 2000," *Journal of Clinical Oncology* 22(17):3524-30, September 2004.

[16] Khuder, SA & Mutgi, AB, "Effect of smoking cessation on major histologic types of lung cancer," *Chest* 120(5):1577-83, November 2001.

complications and related health care costs for the children in their first year or life.[17] The five-year heart attack and stroke savings projections show the estimated reductions in smoking-caused health care expenditures from reduced smoking-caused heart attacks within the first five years after the tax increase.[18] [19]

Because of research and data limitations, it is not yet possible to estimate total health care cost savings in each year following a cigarette tax increase, or even to provide reasonable estimates of the total health care savings over the first five or ten years. Since many smoking-related diseases take years to develop, smoking-caused health care cost savings from a cigarette tax increase will be relatively small in the first year after an increase; however, they grow quickly. The projected long-term total health care cost savings from reducing the number of future youth and current adult smokers accrue over the lifetimes of youth (under 18 years old) alive in the state today who quit or don't start because of the tax increase and over the lifetimes of current adult smokers who quit because of the tax increase. Smokers' lifetime health care costs average at least $17,500 higher than nonsmokers (in 2004 dollars), despite shorter life spans. However, the savings per adult quitter are less than that amount (at least $9,500 in 2004 dollars) because adult smokers have already been significantly harmed by their smoking and have already incurred or locked-in extra future smoking-caused health costs.[20] [21] [22] [23]

The five-year savings to the state Medicaid program are estimated based on the number of adult Medicaid recipients expected to quit due to the tax increase and the costs averted per quitting Medicaid recipient.[24] Estimates for adults enrolled in state Medicaid programs include the additional expected enrollment in states that expanded their Medicaid eligibility as part of the Affordable Care Act[25] and adults who were previously eligible under existing rules and are expected to enroll in 2014,

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[17] Miller, D, et al., "Birth and First-Year Costs for Mothers and Infants Attributable to Maternal Smoking," *Nicotine & Tobacco Research* 3:25-35, 2001; and state pregnancy-smoking and birth data.

[18] Lightwood & Glantz, "Short-Term Economic and Health Benefits of Smoking Cessation – Myocardial Infarction and Stroke," *Circulation* 96(4), August 19, 1997.

[19] Kabir, et al., "Coronary Heart Disease Deaths and Decreased Smoking Prevalence in Massachusetts, 1993-2003," *American Journal of Public Health* 98(8):1468-69, August 2008.

[20] Hodgson, TA, "Cigarette Smoking and Lifetime Medical Expenditures," *The Milbank Quarterly* 70(1), 1992. CDC, "Projected Smoking-Related Deaths Among Youth—United States," *MMWR* 45(44):971-974, November 8, 1996, http://www.cdc.gov/mmwr/preview/mmwrhtml/00044348.htm.

[21] Nusselder, W, et al., "Smoking and the Compression of Morbidity," E*pidemiology & Community Health*, 2000.

[22] Warner, K, et al., "Medical Costs of Smoking in the United States: Estimates, Their Validity, and Their Implications," *Tobacco Control* 8(3):290-300, Autumn 1999, http://tc.bmjjournals.com/content/vol8/issue3/index.shtml.

[23] CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States 2000-2004," *MMWR* 57(45):1226-1228, November 14, 2008, http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm.

[24] Miller, LS, et al., "State estimates of Medicaid expenditures attributable to cigarette smoking, fiscal year 1993," *Public Health Reports* 113(2):140-51, 1998.

[25] States considered to have expanded their Medicaid eligibility are those noted to be "Implementing expansion in 2014," according to: Kaiser Family Foundation, "Status of State Action on the Medicaid Expansion Decision, 2014." January 28, 2014. Available at http://kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/.

2015, and 2016. The projected Medicaid cost savings are calculated using per capita adult Medicaid spending data[26] and separately take into account the costs of newly-eligible adult Medicaid enrollees, previously-eligible but newly-enrolled adult Medicaid beneficiaries, adult Medicaid beneficiaries enrolled before 2014, as well as future projected cost increases. Additional data and cost analyses were provided through correspondence by Matthew Buettgens, Ph.D., and Hanna Recht at the Urban Institute.[27] The proportion of the state Medicaid program's projected cost savings that would accrue to the state government are calculated based on the state's Federal Medical Assistance Percentage (FMAP), calculated separately for newly-eligible and previously-eligible enrollees. Only the projected cost savings that would accrue to the state government are reported.

All projected savings have been adjusted to 2014 dollars, using the Consumer Price Index for Medical Care (MCPI). Forecasted costs are estimated using the average of the difference between annual medical inflation and annual inflation that occurred between the years 2007 and 2012. These projections do not include a range of additional short and long-term savings from other declines in smoking-caused health problems and other smoking-caused costs.[28]

Projections for cigarette tax increases much higher than $1.00 per pack are limited, especially for states with relatively low current tax rates, because of the lack of research on the effects of larger cigarette tax increase amounts on consumption and prevalence. Projections for cigarette tax increases much lower than $1.00 per pack are also limited because small tax increases are unlikely to produce significant public health benefits.

February 17, 2014

Projections change when new data or research findings become available and the underlying data and methodologies are updated or revised.

Please direct questions to:
Campaign for Tobacco-Free Kids: Ann Boonn, aboonn@tobaccofreekids.org
American Cancer Society Cancer Action Network: Melissa Maitin-Shepard, Melissa.Maitin-Shepard@cancer.org

Campaign for Tobacco-Free Kids' resources on state tobacco tax increases:
http://www.tobaccofreekids.org/what_we_do/state_local/taxes/
http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

American Cancer Society Cancer Action Network's resources on tobacco taxes:
http://acscan.org/tobacco/taxes

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[26] Projected current and future costs are extrapolated from FY 2010 per capita Medicaid spending estimates from the Kaiser Family Foundation. State Health Facts. Available at http://kff.org/medicaid/state-indicator/medicaid-payments-per-enrollee/.

[27] Buettgens, M, et al., *Eligibility for Assistance and Projected Changes in Coverage Under the ACA: Variation Across States*, October 2013, http://www.urban.org/publications/412918.html.

[28] See, e.g., U.S. Department of the Treasury, *The Economic Costs of Smoking in the U.S. and the Benefits of Comprehensive Tobacco Legislation*, 1998.

The State Auditor's office did not receive a response from the **Department of Higher Education,** the **Department of Public Safety,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

Fiscal Note Summary

State government revenue will increase by approximately $150 million annually from the tax changes in this proposal. State government revenue from the Master Settlement Agreement may decrease by an unknown amount annually up to approximately $135 million depending on dispute and litigation outcomes. The potential fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-128)

Subject

Initiative petition from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149. (Received March 11, 2014)

Date

March 31, 2014

Description

This proposal would amend Chapter 149, RSMo.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated

The proposal would artificially deem the payment of a new tax as compliance with the state's tobacco escrow laws. However, while such taxes would be deemed compliance with state law, it would not be deemed compliance with certain conditions of the Tobacco Master Settlement Agreement (MSA). The MSA is a contractual agreement between the state and certain tobacco product manufacturers, the terms of which cannot be altered or avoided by statute. Accordingly, the result of the proposal would be that certain tobacco product manufacturers would be deemed in compliance with state law even though they had not in fact complied with state law.

Because certain tobacco product manufacturers would be able to avoid actual compliance with existing state laws, the state would be powerless to diligently enforce its existing state laws on this subject, which enforcement is necessary to avoid a substantial reduction in annual MSA payments known as the "NPM adjustment." Although it is impossible to predict with precision the exact amount of future NPM adjustments, it could be up to the full amount of Missouri's annual MSA payment (approximately $130 million annually at present). However, as disputes over annual NPM adjustments are presently being resolved several years in arrears, NPM adjustments incurred in the current and immediately upcoming fiscal years may not actually be realized until several years into the future.

In sum, the proposal would result in a substantial loss of state revenue, in perpetuity, in the form of either a substantial reduction or possible elimination of the state's annual MSA payments, though the precise amount of loss and the exact fiscal year in which such loss would first be realized cannot be accurately predicted at this time

As noted, the proposal would change the manner in which tobacco manufacturers can comply with certain state laws, but would not eliminate the existing requirements nor the AGO's obligation to enforce them. Moreover, the proposal would not adjust any of the AGO's other duties and obligations under the MSA or related state laws. Accordingly, the AGO would not realize any savings from the proposal but assumes that any increased costs for the AGO associated with the proposal could be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

Tobacco Master Settlement Agreement

FY 2014 estimated allocations of revenues from the Tobacco Master Settlement Agreement are summarized below:

Estimated Tobacco Master Settlement Agreement	$59,800,000
Allocations	
Life Science Research	$15,000,000
ECDEC	$35,000,000
HFTR	$9,800,000
	$59,800,000

The $35 million portion allocated to ECDEC (Early Childhood Development Education and Care Fund) is further allocated to DESE and the Dept of Social Services.

As indicated in the chart below, DESE uses these funds for First Steps, PAT, MPP, and Early Childhood Special Education. Any decrease in funding to the master settlement agreement will likely result in a reduction to these programs.

	FY 2014
First Steps	$578,644
Foundation - Parents as Teachers	$5,000,000
Foundation - Early Childhood Spec. Ed	$7,412,900
MPP	$11,754,429
	$24,745,973

Tobacco Tax Revenues

A query of SAM II revealed the following revenues from the cigarette tax revenue code (1057):

	FY 2014
Health Initiatives Fund	$20,432,467
State School Moneys Fund	$45,973,051
Fair Share Fund	$20,432,467
St. Louis County Cigarette Tax	$3,155,725
Jackson County Cigarette Tax	$2,316,945
	$92,310,655

Specific to DESE's budget are the revenues in the State School Moneys fund and the Fair Share fund totaling $66,405,518.

This proposal will likely have an impact on these revenues; however, the officials said they have no means to calculate such impact. They deferred to another agency regarding the extent of any impact to tobacco tax revenues as a result of this proposal.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact to their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated the proposal will have no fiscal impact on the department, but it will impact state revenues.

Based upon information reported for 2013, there were 10.29 million sticks of cigarettes stamped for sale in Missouri. Imposing an additional tax of $0.015 per stick would generate $154 million annually. The department cannot provide an estimate for the amount of revenue that would be generated on Roll-Your-Own as the tax is imposed on the manufacturers invoice price and this information is not tracked.

Although the tax established within this petition will increase revenues, the state may lose by as much as $135 million annually if it can no longer comply with the terms of the Master Settlement Agreement.

The petition increases state revenue. However, the increased tax may reduce sales, eventually reducing revenues. The state may also lose revenues that would have been received from the Master Settlement Agreement.

The petition proposes a tax on the sale of cigarettes and roll-your-own (RYO) tobacco equal to one and one-half cents per cigarette and 10.25 percent of the manufacturer's invoice prices on the RYO tobacco products of any tobacco product manufacturer electing such taxation in lieu of the requirements of sections 196.1003 and 196.1020 to 196.1035. However, as a result of this petition, the state may not be in compliance with the Master Settlement Agreement, which may result in a loss of revenues up to $135 million annually.

Administrative Impact:
Excise Tax:
Currently, tobacco product manufacturers must comply with the Master Settlement Agreement, under which they are required to become a participating manufacturer (PM) and perform financial obligations under the Master Settlement Agreement or place funds in an escrow account based upon units sold in the state. Under sections 196.1020 to 196.1035, PM's are required to certify their brands each year to the department in order to be placed in the state tobacco directory.

RYO tobacco is taxed in the same manner as other tobacco products at 10 percent of manufacturers invoice price before discounts and deals. The additional tax being imposed only applies to RYO tobacco. This will require new reporting forms and schedules to separate RYO tobacco from other tobacco products.

Notification of the tax increase and changes to the reporting of RYO tobacco will need to be sent to 250 licensed cigarette and other tobacco product wholesalers.

The department assumes that the additional taxes being imposed would be for the sales of cigarettes sales beginning January 1, 2015. This legislation does not provide for a floor stocks tax on stamped product or un-affixed stamps in the electing licensed wholesalers' inventory. There also is no language prohibiting stockpiling of stamps. The absence of a floor stock tax and limits on purchase of stamps prior to the increase would not only deplete the department's inventory of stamps, and but would also provide for a windfall for wholesalers purchasing the stamps prior to the increase.

NPMs making escrow deposits on April 15, 2014 for 2013 sales are expected to place an amount based upon $0.0299790 a stick into escrow.

Comments:

If the initiative petition becomes law, Non Participating Manufacturers (NPM) would not be required to make the escrow payments required by the Master Settlement Agreement. This would mean the state would not comply with the terms of the agreement which likely would result in the potential loss of the settlement payments from Participating Members.

Subsection 149.018.1 provides that a tobacco product manufacturer shall have been deemed to meet all the Chapter 196 requirements for cigarettes & Roll-Your-Own (RYO) tobacco when the additional tax of $0.015 per cigarette (30 cents per pack of 20) or the additional tax of 10.25% on RYO tobacco is levied upon the sale.

If PM's were required to make payments under the Agreement, the initiative petition would still put the PM's at a disadvantage compared to non-participating manufacturers (NPM) because both PM and NPM cigarettes would have the additional tax on them.

Unless section 196.1023 is repealed, the department will still be required to maintain the tobacco directory. Thus, the department would still need the ability to require tobacco manufacturers to provide a list of their brands each year. The department suggests language be added that would require the filing of brand reports by tobacco product manufacturers or add language to 149.018 so the director may promulgate rules for administration of this section.

Subsection 149.018.2 imposes the additional tax on cigarettes & RYO tobacco but does not designate where the funds are to be deposited. Subsection 3 does state that the additional tax is to be collected in the same manner as the current taxes imposed under Chapter 149, however the current cigarette taxes are deposited into three separate funds by statute (Health Initiatives, Fair Share and the State School Moneys Fund) and the tax on RYO tobacco is deposited into the Health Initiatives Fund by statute. Clarification is needed on where the additional revenue being imposed is to be deposited.

Subsection 149.018.3 requires the additional taxes be collected in the same manner as the current tax imposed upon the sale of cigarettes & RYO tobacco. The department assumes this would then include any allowances currently allowed as well as refunds.

The additional tax being imposed on cigarettes will require changes to the decal ordering form, minor changes to the accounting system and changes to the cashiering procedures. Because manufacturers would have the option of having the additional tax imposed, this would require the department to have two different sets of each cigarette stamp; one for the current tax rate and one for the additional tax rate. Additionally, if the new tax applies to the current inventory of manufacturers making the election, this would require language providing for a floor stocks tax. Since cigarette stamps for the entire fiscal year are purchased prior to beginning of a fiscal year, there may not be adequate funds budgeted for the purchase of additional stamps. This legislation is to be put to a vote of the people on November 4, 2014 and would become effective upon certification of the votes cast. If new stamps are needed, there may not be sufficient time to obtain them prior to the effective date of January 1, 2015.

Please note this does not include retailers. The department is not sure how all retailers would be reached as they are not required to be licensed. The department recommends that the following language be added:

> Each licensed wholesaler shall make a final actual inventory of all stamped cigarettes and all unapplied stamps in the licensee's possession. This final actual inventory shall be taken at the end of the day prior to the effective date of the tax increase and shall be certified to the department within 10 days. The director shall discontinue selling stamps to any licensee that fails to certify the actual inventory within the 10-day period and will resume selling when the certification is received.
>
> The increased tax amount shall apply to the final actual inventory and payment of the additional amount shall be paid within sixty days of the effective date of the

tax increase. The director shall discontinue selling stamps to any licensee that fails to remit the additional amount due within the 60-day period and shall assess the licensee for the additional tax due.

The increased tax amount shall apply to all stamps sold by the department beginning on the effective date of the new tax increase.

For a period up to six months prior to the effective date of a tax increase, each licensee shall not be allowed to purchase stamps in an amount greater than 110 percent of the amount that was purchased during the same period during the previous year.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to the department. Since the budget of any state agency is dependent upon the appropriations process, the department cannot predict whether the department might be affected if this proposal were to result in a change in the total amount of General Revenue available to fund state government.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal creates, upon voter approval, additional taxes on cigarettes and roll-your-own tobacco products. IP 14-127 lets tobacco product manufacturers meet the requirements of the Master Settlement Agreement (MSA) through paying increased sales taxes. IP 14-128 allows tobacco product manufacturers the choice of paying increased sales taxes on tobacco products or paying the required amounts into the MSA. IP 14-129 eliminates the MSA and increases the tax on tobacco products. Below are estimates of the increased revenue to the state from the increased tax on tobacco products.

The MSA has provided the following revenue to the state by year over the last three years: FY 2011-$132.6M, FY 2012-$135.2M, FY 2013-$135.2M. The estimate of revenues from the MSA in FY 2014 is $59.8M. Funds from the MSA are used to support the Early Childhood Development and Education Fund, the Life Sciences Research Trust Fund and the Healthy Families Trust Fund.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

Cigarette Tax (all versions)

The proposals create an additional cigarette tax of $0.30 per pack of twenty. BAP notes that cigarette tax revenues in FY13, at $0.17 per pack of twenty, totaled just over $86.8M. If the number of packs sold remains constant, this would generate over $153M in additional revenues. However it is likely the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $141.2M of revenues.

Tax on Roll-Your-Own Tobacco Products

These proposals create an additional tax of 10.25% of the invoice price on Roll-Your-Own Tobacco products. While these products are currently taxed as an "Other Tobacco Product," BAP does not have data on what portion of "Other" products may be subject to additional tax under this proposal. BAP notes that "Other Tobacco Product" revenues in FY13, at 10% of the invoice price, totaled just under $16.9M.

These proposals amend Chapter 149. BAP assumes the new revenues above would be deposited to the credit of the State Schools Money Fund, pursuant to RSMo. 149.065.

BAP also notes this proposal may make changes to Missouri's participation in the Master Settlement Agreement. The Attorney General may be able to provide additional information on this issue.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on the State Public Defender System other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Cole County** indicated they cannot determine the fiscal impact of this initiative.

Officials from the **City of Kansas City** indicated they are unable to estimate the fiscal impact of the initiative petition.

Officials from the **City of Raymore** indicated no fiscal impact.

The State Auditor's office did not receive a response from the **Department of Higher Education,** the **Department of Public Safety,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

Fiscal Note Summary

State government revenue will increase by an unknown amount up to approximately $150 million annually depending on how many entities choose the additional tax option in the proposal. State government revenue from the Master Settlement Agreement may decrease by an unknown amount annually up to approximately $135 million depending on dispute and litigation outcomes.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-129)

Subject

Initiative petition from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149. (Received March 11, 2014)

Date

March 31, 2014

Description

This proposal would amend Chapter 149, RSMo.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Charles A. Arnold provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated:

The proposal would repeal certain state laws related to the Tobacco Master Settlement Agreement (MSA). Amongst these laws that would be repealed is the requirement that tobacco product manufacturers either participate in the MSA or escrow certain funds. The existence of this requirement of state law is a precondition for the state to avoid a substantial reduction in annual MSA payments known as the "NPM adjustment." If that provision were repealed, as the proposal calls for, the state would be unable to avoid that reduction.

Although it is impossible to predict with precision the exact amount of future NPM adjustments, it could be up to the full amount of Missouri's annual MSA payment (approximately $130 million annually at present). However, as disputes over annual NPM adjustments are presently being resolved several years in arrears, NPM adjustments incurred in the current and immediately upcoming fiscal years may not actually be realized until several years into the future.

In sum, the proposal would result in a substantial loss of state revenue, in perpetuity, in the form of either a substantial reduction or possible elimination of the state's annual MSA payments, though the precise amount of loss and the exact fiscal year in which such loss would first be realized cannot be accurately predicted at this time.

The repeal of these provisions would eliminate the AGO's duty to enforce those provisions, including the escrow requirement. However, the AGO would still have to enforce other remaining tobacco laws, and more over would continue to have obligations under the MSA itself. Accordingly, at most the AGO would be able to reduce its staff requirements by 0.5 FTE AAG II. AGO anticipates a cost savings $43,362 in FY 2016 and $43,886 in FY 2017.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

Tobacco Master Settlement Agreement
FY 2014 estimated allocations of revenues from the Tobacco Master Settlement Agreement are summarized below:

Estimated Tobacco Master Settlement Agreement	$59,800,000
Allocations	
Life Science Research	$15,000,000

ECDEC	$35,000,000
HFTR	$9,800,000
	$59,800,000

The $35 million portion allocated to ECDEC (Early Childhood Development Education and Care Fund) is further allocated to DESE and the Dept of Social Services.

As indicated in the chart below, DESE uses these funds for First Steps, PAT, MPP, and Early Childhood Special Education. Any decrease in funding to the master settlement agreement will likely result in a reduction to these programs.

	FY 2014
First Steps	$578,644
Foundation - Parents as Teachers	$5,000,000
Foundation - Early Childhood Spec. Ed	$7,412,900
MPP	$11,754,429
	$24,745,973

Tobacco Tax Revenues

A query of SAM II revealed the following revenues from the cigarette tax revenue code (1057):

	FY 2014
Health Initiatives Fund	$20,432,467
State School Moneys Fund	$45,973,051
Fair Share Fund	$20,432,467
St. Louis County Cigarette Tax	$3,155,725
Jackson County Cigarette Tax	$2,316,945
	$92,310,655

Specific to DESE's budget are the revenues in the State School Moneys fund and the Fair Share fund totaling $66,405,518.

This proposal will likely have an impact on these revenues; however, the officials said they have no means to calculate such impact. They deferred to another agency regarding the extent of any impact to tobacco tax revenues as a result of this proposal.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated the impact of repealing Section 196.1000 through 196.1035 could be very significant for the State of Missouri. If repealing these sections precludes Missouri participation in the proceeds from that settlement; the impact to their department would be significant. Currently, their department is appropriated approximately $2.3 million each fiscal year.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact to their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated the proposal will have no fiscal impact on the department, but it will impact state revenues.

Based upon the information reported for 2013 there were 10,298,591,350 sticks of cigarettes stamped for sale in Missouri. Imposing an additional tax of $0.015 per stick would generate $154,478,870. The department cannot provide an estimate for the amount of revenue that would be generated on Roll-Your-Own as the tax is imposed on the manufacturers invoice price and this information is not tracked.

This petition repeals the statutes implementing the Master Settlement Agreement. This will result in a loss of revenues by as much as $135 million annually because the state will no longer be in compliance with the terms of the Master Settlement Agreement.

The petition increases state revenue. However, the increased tax may reduce sales, eventually reducing revenues. The state will also lose revenues that would have been received from the Master Settlement Agreement.

The petition proposes a tax on the sale of cigarettes and roll-your-own (RYO) tobacco equal to one and one-half cents per cigarette and 10.25 percent of the manufacturer's invoice prices on the RYO tobacco products. This legislation also repeals eight sections implementing the Master Settlement Agreement, including:

Section 196.1000
Section 196.1003
Section 196.1020
Section 196.1023
Section 196.1026
Section 196.1029
Section 196.1032
Section 196.1035

Administrative Impact:
This legislation would raise the tax on cigarettes and Roll-Your-Own (RYO) tobacco and eliminate all the current states implementing the Master Settlement Agreement.

The department believes this legislation would eliminate Missouri's participation in the Master Settlement Agreement (MSA) and Missouri would no longer receive revenues from this Agreement.

Notification of the tax increase and changes to the reporting of RYO tobacco will need to be sent to 250 licensed cigarette and other tobacco product wholesalers.

Comments:

If the initiative petition becomes law, the statutes implementing the Master Settlement Agreement would be repealed. This would not comply with the terms of the agreement which likely would result in the loss of the settlement payments from Participating Members.

Subdivision 149.018.1 imposes the additional tax on cigarettes and Roll-Your-Own (RYO) but does not designate where the funds are to be deposited. Further it states that the additional tax is to be collected in the same manner as the current taxes imposed under Chapter 149, however the current cigarette taxes are deposited into 3 separate funds by statute (Health Initiatives, Fair Share and the State School Moneys Fund) and the tax on RYO is deposited into the Health Initiatives Fund by statute. Clarification is needed on where the additional revenue being imposed is to be deposited.

The additional tax being imposed on cigarettes will require changes to the decal ordering form, minor changes to the accounting system and changes to the cashiering procedures. If the tax being imposed applies to current inventories of stamped cigarettes and un-affixed stamps, then the current stamps may be used. However, this would require language providing for a floor stocks tax. If the additional tax does not apply to existing inventories, then new stamps would be required to be designed and purchased. Since cigarette stamps for the entire fiscal year are purchased prior to the beginning of a fiscal year, there may not be adequate funds budgeted for the purchase of additional stamp. This legislation is to be put to a vote of the people on November 4, 2014 and would become effective upon certification of the votes cast. If new stamps are needed, there may not be sufficient time to obtain them prior to the effective date of January 1, 2015.

Please note this does not include retailers. The department is not sure how all retailers would be reached as they are not required to be licensed. The department recommends that the following language be added:

> Each licensed wholesaler shall make a final actual inventory of all stamped cigarettes and all unapplied stamps in the licensee's possession. This final actual inventory shall be taken at the end of the day prior to the effective date of the tax increase and shall be certified to the department within 10 days. The director

shall discontinue selling stamps to any licensee that fails to certify the actual inventory within the 10-day period and will resume selling when the certification is received.

The increased tax amount shall apply to the final actual inventory and payment of the additional amount shall be paid within sixty days of the effective date of the tax increase. The director shall discontinue selling stamps to any licensee that fails to remit the additional amount due within the 60-day period and shall assess the licensee for the additional tax due.

The increased tax amount shall apply to all stamps sold by the department beginning on the effective date of the new tax increase.

For a period up to six months prior to the effective date of a tax increase, each licensee shall not be allowed to purchase stamps in an amount greater than 110 percent of the amount that was purchased during the same period during the previous year.

Officials from the **Department of Social Services** indicated there is no direct fiscal impact to the department. Since the budget of any state agency is dependent upon the appropriations process, the department cannot predict whether the department might be affected if this proposal were to result in a change in the total amount of General Revenue available to fund state government.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal creates, upon voter approval, additional taxes on cigarettes and roll-your-own tobacco products. IP 14-127 lets tobacco product manufacturers meet the requirements of the Master Settlement Agreement (MSA) through paying increased sales taxes. IP 14-128 allows tobacco product manufacturers the choice of paying increased sales taxes on tobacco products or paying the required amounts into the MSA. IP 14-129 eliminates the MSA and increases the tax on tobacco products. Below are estimates of the increased revenue to the state from the increased tax on tobacco products.

The MSA has provided the following revenue to the state by year over the last three years: FY 2011-$132.6M, FY 2012-$135.2M, FY 2013-$135.2M. The estimate of revenues from the MSA in FY 2014 is $59.8M. Funds from the MSA are used to support

the Early Childhood Development and Education Fund, the Life Sciences Research Trust Fund and the Healthy Families Trust Fund.

There should be no cost to the Office of Administration.

Budget & Planning (BAP) provides these estimates:

Cigarette Tax (all versions):
The proposals create an additional cigarette tax of $0.30 per pack of twenty. BAP notes that cigarette tax revenues in FY13, at $0.17 per pack of twenty, totaled just over $86.8M. If the number of packs sold remains constant, this would generate over $153M in additional revenues. However it is likely the additional tax would reduce the number of units sold. BAP estimates this additional tax would generate $141.2M of revenues.

Tax on Roll-Your-Own Tobacco Products
These proposals create an additional tax of 10.25% of the invoice price on Roll-Your-Own Tobacco products. While these products are currently taxed as an "Other Tobacco Product," BAP does not have data on what portion of "Other" products may be subject to additional tax under this proposal. BAP notes that "Other Tobacco Product" revenues in FY13, at 10% of the invoice price, totaled just under $16.9M.

These proposals amend Chapter 149. BAP assumes the new revenues above would be deposited to the credit of the State Schools Money Fund, pursuant to RSMo. 149.065.

BAP also notes this proposal may make changes to Missouri's participation in the Master Settlement Agreement. The Attorney General may be able to provide additional information on this issue.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory,

we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on the State Public Defender System other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Cole County** indicated they are not able to determine fiscal impact of this legislation at this time.

Officials from the **City of Kansas City** indicated they are unable to estimate the fiscal impact of the initiative petition.

Officials from the **City of Raymore** indicated no fiscal impact.

Charles A. Arnold provided the following information as a proponent of this initiative petition.

Initiative Petitions 2014-127; 2014-129

Subject

Initiative petition 2014-127 and 2014-129 from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149, Tobacco Excise Tax.

Date

March 17, 2014

Description

This proposal would amend Chapter 149 of the Missouri revised statutes.

The amendment is to be voted on in November 2014.

The amendment would be effective January 1, 2015

Assumptions

The petitions propose to increase the current excise tax paid on all cigarettes sold in Missouri by .015-cents per cigarette (30-cents per pack of 20 cigarettes). The petitions also impose a tax on the manufacturers invoice price, before discounts and deals, of .1025% on roll-your-own tobacco.

The average price of a pack of 20-cigarettes in Missouri is $4.30 per pack (including the current $.17 per pack cigarette excise tax)[1].

The proposed increase will result in an approximate 7% increase in the average price of a pack of 20-cigarettes sold in the state, causing a slight downward adjustment in total annual cigarette pack sales of approximately 2.8%.[2]

According to information submitted by the Missouri Department of Revenue in response to Auditors information request on note 14-099, there were 536.5 million packs of cigarettes sold in the state of Missouri during 2012.

It is assumed that wholesalers licensed by the Missouri Department of Revenue will receive the 3 percent discount established in Chapter 149, RSMo.

The proposed change in compliance standards could result in a reduction of "between 21% and 100% of the $130 million Tobacco Settlement payment" [3] that Missouri receives annually. Missouri was recently deemed non-compliant by a national arbitration panel for calendar year 2003 over an NPM Adjustment dispute. The result of that decision is an approximate $70 million reduction in the states $130 million annual tobacco settlement payment for 2014.

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[1] *"The Tax Burden on Tobacco, Vol. 46"*, Page 186.

[2] "TobaccoFreeKids.org Facts Sheet 0281", Page 1, Paragraph 2

[3] *Missouri Attorney General Chris Koster letter to Senator Kurt Schaefer*, January 9, 2013. Page 1, Paragraph 2.

Table 1- Calculation of the downward sales adjustment due to the tax increase	
Total packs sold in Missouri 2012	536,500,000
Downward adjustment due to tax increase (2.8% sales reduction)	-15,022,000
Total packs sold after downward adjustment applied	521,478,000

Table 2- Calculation of total new revenues derived from the new tax	
Total packs sold after downward adjustment applied	521,478,000
Additional excise tax per pack of 20-cigarettes (30-cents per pack)	x .30
Total new revenues (gross) derived from the additional excise tax	$ 156,443,400.00

Table 3- Calculation of adjustments to new revenues derived from the new tax	
Total new revenues (gross) derived from the additional excise tax	$ 156,443,400.00
Less: 3% tax stamping allowance per Chapter 149	-$ 4,693,302.00
Net New Revenue	$ 151,750,098.00

Summary

The additional tax proposed by initiative petitions 2014-127 and 2014-129 will generate approximately $151.8 million in net new cigarette excise tax revenue annually.

However, if tobacco settlement payment reductions due to the compliance change contemplated by these petitions are applied to future tobacco settlement payments, net new cigarette excise tax revenues could be affected periodically.

If the maximum reduction for a non-compliant determination is applied, such a reduction could result in no more than 100% of the states annual tobacco settlement payment of $130million in any given year.

Thus, the net affect on new cigarette excise tax revenues generated by these proposals in years where a tobacco settlement payment reduction is applied produces a range of between $21.8million to $151.8million in new cigarette excise tax revenues.

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

January 9, 2013

The Honorable Kurt Schaefer
State Senator, District 19
State Capitol, Room 221
Jefferson City, Missouri 65101

RE: Notice of Possible Revenue Reduction Due to Arbitration of 2003 Master Settlement Agreement (Tobacco Settlement) Payment Dispute

Dear Senator Schaefer:

For many years now, Governor Nixon and I have warned the General Assembly in writing about the need to enact two new pieces of legislation to close the loopholes in Missouri's Tobacco Settlement Agreement Act. One of those laws required eight years to pass (leaving Missouri unprotected during a critical period now in arbitration). The other has never been passed (making Missouri the only State in the nation to have made such a policy determination).

Today, as counsel for the State, I am alerting you to the potential consequences of inaction by your predecessors in the General Assembly. Due to Missouri's delay or failure to pass these two key pieces of legislation, there is now an even chance that Missouri will forfeit between 21% and 100% of the $130 million Tobacco Settlement payment the State previously received for calendar year 2003. To repay that obligation, any forfeiture will be automatically deducted from the $130 million (projected) Tobacco Settlement payment Missouri anticipates receiving in April 2014. The purpose of this letter is to bring this serious risk to Missouri's FY 2014 consensus revenue estimate to your attention.

In 1998, Missouri and 45 other States signed the Master Settlement Agreement (Tobacco Settlement) with several tobacco companies, known as "Participating Manufacturers." The States agreed to dismiss their pending lawsuits against the Participating Manufacturers for the healthcare costs associated with tobacco in exchange for perpetual payments from the Participating Manufacturers in excess of $6 billion per year, 2.27% of which (approximately $130 million per year) is allocated to Missouri.

As part of the Tobacco Settlement, every State agreed to enact a model escrow statute requiring Non-Participating Manufacturers—cigarette manufacturers that did not sign the Tobacco Settlement—to make annual escrow deposits roughly proportional to the Participating Manufacturers' annual Tobacco Settlement payments. The escrow statute served two purposes: it required Non-Participating Manufacturers to set aside sufficient funds to satisfy any future judgments the States might someday obtain against them, and it furthered the public health goals of the Tobacco Settlement by denying Non-Participating Manufacturers a market advantage over the Participating Manufacturers. The States further agreed to give the Participating Manufacturers a treble credit for any market share they lost to the Non-Participating Manufacturers should the States fail to "diligently enforce" their escrow statutes.

After the Tobacco Settlement was signed, Missouri and the other States identified several loopholes in the model escrow statute that made enforcement difficult. For example, more than half of the Non-Participating Manufacturers' cigarettes sold in Missouri in 2003 were manufactured by Native American tribes or foreign (offshore) companies that failed to make the necessary escrow deposits. States were unable to force tribal manufacturers to deposit the escrow they owed because Native American tribes are entitled to sovereign immunity in the nation's courts, including those in Missouri. Nor were States able to ensure the necessary deposits from offshore manufacturers due to the extraordinary difficulty in obtaining service of legal process outside the borders of the United States.

Working with the Participating Manufacturers, the States proposed a series of legislative solutions to these common enforcement problems. The first of these solutions, called "Complementary Legislation," required any Non-Participating Manufacturer selling cigarettes into the adopting State to have a registered agent in the State to receive service of process. It also allowed the adopting State to maintain a directory of Non-Participating Manufacturers that made the necessary escrow deposits and, more

importantly, to ban all other Non-Participating Manufacturers from that State's markets.

Then-Attorney General Nixon first proposed Complementary Legislation to the Missouri General Assembly in 2002, and subsequently proposed the same legislation every year thereafter. Despite those persistent requests, Missouri did not enact Complementary Legislation until 2010. Missouri was the last State in the country to pass this legislation, by many years.

The second legislative solution, called "Allocable Share Release (ASR) Repeal," prevented Non-Participating Manufacturers from avoiding their full escrow obligations by concentrating their sales in only a few States. ASR Repeal was first proposed to our General Assembly by then-Attorney General Nixon in 2002 and every year thereafter until he became Governor. Since I assumed the Office of Attorney General, I too have implored the General Assembly to pass ASR Repeal in each of the last four years. Despite the persistent pleas of two Attorneys General over ten years, Missouri remains the ***only*** State in the nation not to enact ASR Repeal.

Missouri is now engaged in a nationwide arbitration between more than 20 Participating Manufacturers and 46 States to determine whether the Participating Manufacturers are entitled to treble damages for their market share loss in calendar year 2003. The attorneys in my office have worked aggressively for more than two years to prevent Missouri from having to pay any part of these damages, presenting Missouri's best defense before three federal judges empanelled to decide the arbitration. However, past General Assemblies' delay in passing Complementary Legislation and their decision not to pass ASR repeal have significantly hindered Missouri's defense and made it all but impossible for Missouri to reach a settlement with the Participating Manufacturers.

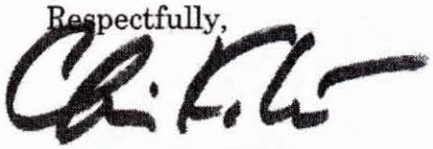
If the Missouri General Assembly had acted to pass Complementary Legislation when then-Attorney General Nixon first proposed it, Missouri would have been able to obtain service of process on foreign Non-Participating Manufacturers that, under the terms of the legislation, would have been forced to identify a registered agent within the borders of our State. Complementary Legislation would also have banned sales by Native American Non-Participating Manufacturers that failed to deposit the required escrow. Both of these enforcement issues are central to the case presently before the arbitration panel.

A number of States have negotiated a potential settlement of the Participating Manufacturers' claims for market share losses from 2003 through 2012. Unfortunately for Missouri, the passage of ASR Repeal is a necessary condition of the proposed settlement agreement. As Missouri is the only State that has refused to pass ASR Repeal, the General Assembly's policy choice effectively prevents Missouri from joining with other States to settle nine years' worth of potential losses with the Participating Manufacturers.

Furthermore, because Missouri was unable to ensure the necessary escrow deposits by foreign and tribal manufacturers in calendar year 2003 due to prior General Assemblies' decisions not to enact Complementary Legislation until 2010, and because we cannot settle the current arbitration under the proposed settlement terms in the absence of ASR Repeal, the Participating Manufacturers' claim against Missouri to recoup part or all of their 2003 Tobacco Settlement payment ***will*** go to verdict sometime next fall.

The Office of Attorney General advised your predecessors every year for the last decade that their legislative inaction could eventually harm the State. While we hope our legal defenses will be successful, we estimate an even chance that the arbitration panel will find Missouri did not "diligently enforce" its escrow statute in 2003 because the State lacked the enforcement tools that Complementary Legislation would have provided. If the panel rules against Missouri, this State will forfeit between 21% and 100% of the $130 million Tobacco Settlement payment the State previously received for calendar year 2003. That forfeiture will be deducted from the $130 million (projected) payment Missouri anticipates receiving in April 2014. As counsel for the State, I am therefore formally putting this General Assembly on notice of that possibility and advising you to budget accordingly.

Respectfully,



CHRIS KOSTER
Attorney General

cc: Mike Price, House Appropriations
Adam Koenigsfeld, Senate Appropriations

STATE CIGARETTE TAX INCREASES: EXPLANATIONS AND SOURCES FOR PROJECTIONS OF NEW REVENUES & BENEFITS

The economic model developed jointly by the Campaign for Tobacco-Free Kids (TFK) and the American Cancer Society Cancer Action Network (ACS CAN) projects the increase in state revenues, public health benefits, and health care cost savings resulting from increases in state cigarette tax rates. The projections are based on economic modeling by Frank Chaloupka, Ph.D., and John Tauras, Ph.D., at the Institute for Health Research and Policy at the University of Illinois at Chicago and are updated annually.

The projections indicate that cigarette tax increases boost state cigarette tax revenues and reduce smoking. When cigarette tax rates are increased by significant amounts, the higher amount of tax collected per pack generates more new revenue than is lost from the decline in pack sales caused by a decline in consumption or increased smoker tax avoidance prompted by the price increase. The projections are based, in part, on research findings that a 10 percent cigarette price increase, if maintained against inflation, reduces youth smoking rates by 6.5 percent or more, adult smoking prevalence by 2 percent, and total consumption by 4 percent.[1 2 3]

The projections are fiscally conservative because they include generous adjustments for lost state pack sales and the corresponding loss of state revenue caused by tax avoidance and tax evasion. For the purposes of our modeling, tax avoidance includes informal smuggling by individual smokers, such as obtaining lower-taxed or untaxed cigarettes either legally or illegally across state lines, from multistate internet sellers, from tribal vendors not subject to state taxes, or from other sources. Tax evasion refers to organized criminal smuggling activity.[4] Despite such practices, cigarette tax increases generate new revenue and reduce smoking rates, which, in turn, reduce smoking-caused disease, deaths, and related economic costs.

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[1] Chaloupka, FJ, "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine & Tobacco Research*, 1999, and other price studies at http://tigger.uic.edu/~fjc.

[2] Tauras, J, et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," Bridging the Gap Research, ImpacTeen, April 24, 2001, and other price studies at http://www.impacteen.org.

[3] Chaloupka, FJ & Pacula, R, "The Impact of Price on Youth Tobacco Use," Chapter 12 in National Cancer Institute, Smoking and Tobacco Control Monograph 14, *Changing Adolescent Smoking Prevalence*, November 2001; International Agency for Research on Cancer (IARC), *Effectiveness of Tax and Price Policies for Tobacco Control*, IARC Handbooks of Cancer Prevention in Tobacco Control, Volume 14, 2011.

[4] Farrelly, M, et al., "Cigarette Smuggling Revisited," U.S. Centers for Disease Control & Prevention (CDC), in press, and Farrelly, M, et al., *State Cigarette Excise Taxes: Implications for Revenue and Tax Evasion*, RTI International, 2003, http://www.rti.org/pubs/8742_Excise_Taxes_FR_5-03.pdf.

Econometric studies indicate that cigarettes and other tobacco products are substitutes for one another, meaning if cigarette taxes/prices are increased while other tobacco product taxes/prices remain unchanged, some of the reductions in cigarette smoking would be offset by increases in the use of other tobacco products.[5] Equalizing the tax rates on other tobacco product taxes would reduce this potential substitution, as well as reduce the use of other tobacco products, while at the same time generate additional revenue.

These projections incorporate the impact of annual background declines of 2 percent on adult and future youth smoking prevalence and 2.5 percent on pack sales, as well as changing pack prices. The background decline is the annual reduction in cigarette use that would be expected to occur without any changes in the tax rate due to other tobacco control policies, changing social norms, and a changing tobacco product landscape. It is calculated based on trends in recent years and current activity. Smoking and pack sale declines in any particular state will vary depending on its existing smoking rates, pack prices, and other tobacco prevention, cessation, and industry activities. To be even more conservative, the projected amounts have also been rounded down.

Despite all of these adjustments to avoid over-estimates, the projections still show that measurable state cigarette tax increases will both significantly reduce smoking levels and substantially increase state revenues. The increased tax per pack will still bring in more new state revenue than is lost from the decrease in the number of packs sold caused by consumption declines, tax avoidance, and smuggling resulting from the tax increase. In those states that apply their sales tax percentage to the total retail price of a pack of cigarettes (including the state cigarette tax amount), a cigarette tax increase will raise state sales tax revenues per pack, which will offset sales tax revenue losses from fewer packs being sold. In addition, smokers who quit or cut back will likely spend the money they previously spent on cigarettes largely on other goods on which sales tax is collected, which further increases state sales tax revenues.

These projections assume that the tax increase is fully passed on to the consumer in higher prices, and keeps up with inflation over time, which is consistent with economic research on the impact of cigarette taxes on cigarette prices.[6] [7] [8] If a tax increase is not fully passed on in the form of higher prices, but is instead partially absorbed by the industry, then the reductions in smoking and its consequences in response to the tax increase will be smaller, while the revenues generated from the tax increase will be larger. Alternatively, if cigarette companies use the tax increase as an opportunity to raise net-of-tax prices and the tax increase is more than passed on, then the reductions in smoking and its consequences will be larger, while the increase in revenues will be smaller.

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[5] Chaloupka, FJ & Warner, KE, "The Economics of Smoking," in Culyer, AJ & Newhouse, JP, eds., *Handbook of Health Economics*, Amsterdam: North-Holland, 2000.

[6] U.S. Department of Health and Human Services (HHS), *Reducing Tobacco Use: A Report of the Surgeon General,* Atlanta: HHS, CDC, National Center for Chronic Disease Prevention & Health Promotion, Office on Smoking and Health, 2000.

[7] Chaloupka, et al., 2000.

[8] HHS, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General,* Atlanta: HHS, CDC, National Center for Chronic Disease Prevention & Health Promotion, Office on Smoking and Health, 2012.

The starting price per pack (before the proposed cigarette tax increase) used in these projections includes all federal and state excise and sales taxes and, where applicable, local taxes (i.e., New York City's $1.50 per pack tax is factored into the overall New York State price per pack). The prices are based on data from *The Tax Burden on Tobacco*, 2012,[9] reports of state cigarette tax increases, media reports on tobacco company price changes, the USDA Economic Research Service, the U.S. Bureau of Labor Statistics (for inflation adjustments), and the U.S. Federal Trade Commission's *Cigarette Report for 2011*[10] (to adjust prices for retailer-based discounts, promotions, and coupons). The projections assume that the state will follow standard practice and apply the cigarette tax increase to all previously tax-stamped or otherwise tax-paid cigarettes held in inventory by wholesalers or retailers on the effective date of the increase. Failing to tax such cigarettes held in inventory would open the door to massive pre-increase stockpiling by retailers and wholesalers to evade the increase, delaying and reducing the amount of new state revenues.

The projected adult and youth smoking and smoking-harmed birth declines, and related mortality reductions are calculated by applying the above findings regarding the effects of tax and price increases to the number of current adult smokers in each state and to estimates of the number of youth (under 18 years old) alive today in each state who will become adult smokers and the number projected to die from smoking.[11] [12] [13] [14]

The projected five-year savings from fewer smoking-caused heart attacks and strokes, fewer smoking-affected pregnancies and related birth complications, and fewer lung cancer cases show just some of the many substantial savings from the smoking reductions prompted by a tax increase that begin to accrue immediately. The projected five-year lung cancer cost savings as a result of adult smokers quitting due to the tax increase takes into account the relative risk of developing lung cancer among quitters and the number of lung cancer deaths attributable to smoking.[15] [16] These savings will increase steadily in subsequent years. The projected five-year smoking-affected pregnancy and birth savings accrue from declines in smoking among pregnant women and corresponding reductions in smoking-caused birth

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[9] Orzechowski and Walker, *The Tax Burden on Tobacco, 2012*, 47, Arlington, VA: Orzechowski and Walker, 2013.

[10] Federal Trade Commission, *Federal Trade Commission Cigarette Report for 2011*, May 2013. Available at http://www.ftc.gov/reports/federal-trade-commission-cigarette-report-2011.

[11] CDC, "Smoking During Pregnancy—United States, 1990-2002," *Morbidity and Mortality Weekly Report (MMWR)* 53(39):911-915, October 8, 2004, http://www.cdc.gov/mmwr/PDF/wk/mm5339.pdf.

[12] CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States 1995-1999," *MMWR* 51(14):300-03, April 11, 2002, www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm.

[13] CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States 2000-2004," *MMWR* 57(45):1226-1228, November 14, 2008, http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm.

[14] CDC, "Projected Smoking-Related Deaths Among Youth—United States," *MMWR* 45(44):971-974, November 11, 1996, http://www.cdc.gov/mmwr/preview/mmwrhtml/00044348.htm, for data on relative death risks of smokers, nonsmokers, and former smokers.

[15] Chang, S, et al., "Estimating the cost of cancer: results on the basis of claims data analyses for cancer patients diagnosed with seven types of cancer during 1999 to 2000," *Journal of Clinical Oncology* 22(17):3524-30, September 2004.

[16] Khuder, SA & Mutgi, AB, "Effect of smoking cessation on major histologic types of lung cancer," *Chest* 120(5):1577-83, November 2001.

complications and related health care costs for the children in their first year or life.[17] The five-year heart attack and stroke savings projections show the estimated reductions in smoking-caused health care expenditures from reduced smoking-caused heart attacks within the first five years after the tax increase.[18] [19]

Because of research and data limitations, it is not yet possible to estimate total health care cost savings in each year following a cigarette tax increase, or even to provide reasonable estimates of the total health care savings over the first five or ten years. Since many smoking-related diseases take years to develop, smoking-caused health care cost savings from a cigarette tax increase will be relatively small in the first year after an increase; however, they grow quickly. The projected long-term total health care cost savings from reducing the number of future youth and current adult smokers accrue over the lifetimes of youth (under 18 years old) alive in the state today who quit or don't start because of the tax increase and over the lifetimes of current adult smokers who quit because of the tax increase. Smokers' lifetime health care costs average at least $17,500 higher than nonsmokers (in 2004 dollars), despite shorter life spans. However, the savings per adult quitter are less than that amount (at least $9,500 in 2004 dollars) because adult smokers have already been significantly harmed by their smoking and have already incurred or locked-in extra future smoking-caused health costs.[20] [21] [22] [23]

The five-year savings to the state Medicaid program are estimated based on the number of adult Medicaid recipients expected to quit due to the tax increase and the costs averted per quitting Medicaid recipient.[24] Estimates for adults enrolled in state Medicaid programs include the additional expected enrollment in states that expanded their Medicaid eligibility as part of the Affordable Care Act[25] and adults who were previously eligible under existing rules and are expected to enroll in 2014,

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[17] Miller, D, et al., "Birth and First-Year Costs for Mothers and Infants Attributable to Maternal Smoking," *Nicotine & Tobacco Research* 3:25-35, 2001; and state pregnancy-smoking and birth data.

[18] Lightwood & Glantz, "Short-Term Economic and Health Benefits of Smoking Cessation – Myocardial Infarction and Stroke," *Circulation* 96(4), August 19, 1997.

[19] Kabir, et al., "Coronary Heart Disease Deaths and Decreased Smoking Prevalence in Massachusetts, 1993-2003," *American Journal of Public Health* 98(8):1468-69, August 2008.

[20] Hodgson, TA, "Cigarette Smoking and Lifetime Medical Expenditures," *The Milbank Quarterly* 70(1), 1992. CDC, "Projected Smoking-Related Deaths Among Youth—United States," *MMWR* 45(44):971-974, November 8, 1996, http://www.cdc.gov/mmwr/preview/mmwrhtml/00044348.htm.

[21] Nusselder, W, et al., "Smoking and the Compression of Morbidity," E*pidemiology & Community Health*, 2000.

[22] Warner, K, et al., "Medical Costs of Smoking in the United States: Estimates, Their Validity, and Their Implications," *Tobacco Control* 8(3):290-300, Autumn 1999, http://tc.bmjjournals.com/content/vol8/issue3/index.shtml.

[23] CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States 2000-2004," *MMWR* 57(45):1226-1228, November 14, 2008, http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm.

[24] Miller, LS, et al., "State estimates of Medicaid expenditures attributable to cigarette smoking, fiscal year 1993," *Public Health Reports* 113(2):140-51, 1998.

[25] States considered to have expanded their Medicaid eligibility are those noted to be "Implementing expansion in 2014," according to: Kaiser Family Foundation, "Status of State Action on the Medicaid Expansion Decision, 2014." January 28, 2014. Available at http://kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/.

2015, and 2016. The projected Medicaid cost savings are calculated using per capita adult Medicaid spending data[26] and separately take into account the costs of newly-eligible adult Medicaid enrollees, previously-eligible but newly-enrolled adult Medicaid beneficiaries, adult Medicaid beneficiaries enrolled before 2014, as well as future projected cost increases. Additional data and cost analyses were provided through correspondence by Matthew Buettgens, Ph.D., and Hanna Recht at the Urban Institute.[27] The proportion of the state Medicaid program's projected cost savings that would accrue to the state government are calculated based on the state's Federal Medical Assistance Percentage (FMAP), calculated separately for newly-eligible and previously-eligible enrollees. Only the projected cost savings that would accrue to the state government are reported.

All projected savings have been adjusted to 2014 dollars, using the Consumer Price Index for Medical Care (MCPI). Forecasted costs are estimated using the average of the difference between annual medical inflation and annual inflation that occurred between the years 2007 and 2012. These projections do not include a range of additional short and long-term savings from other declines in smoking-caused health problems and other smoking-caused costs.[28]

Projections for cigarette tax increases much higher than $1.00 per pack are limited, especially for states with relatively low current tax rates, because of the lack of research on the effects of larger cigarette tax increase amounts on consumption and prevalence. Projections for cigarette tax increases much lower than $1.00 per pack are also limited because small tax increases are unlikely to produce significant public health benefits.

February 17, 2014

Projections change when new data or research findings become available and the underlying data and methodologies are updated or revised.

Please direct questions to:
Campaign for Tobacco-Free Kids: Ann Boonn, aboonn@tobaccofreekids.org
American Cancer Society Cancer Action Network: Melissa Maitin-Shepard, Melissa.Maitin-Shepard@cancer.org

Campaign for Tobacco-Free Kids' resources on state tobacco tax increases:
http://www.tobaccofreekids.org/what_we_do/state_local/taxes/
http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

American Cancer Society Cancer Action Network's resources on tobacco taxes:
http://acscan.org/tobacco/taxes

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[26] Projected current and future costs are extrapolated from FY 2010 per capita Medicaid spending estimates from the Kaiser Family Foundation. State Health Facts. Available at http://kff.org/medicaid/state-indicator/medicaid-payments-per-enrollee/.

[27] Buettgens, M, et al., *Eligibility for Assistance and Projected Changes in Coverage Under the ACA: Variation Across States*, October 2013, http://www.urban.org/publications/412918.html.

[28] See, e.g., U.S. Department of the Treasury, *The Economic Costs of Smoking in the U.S. and the Benefits of Comprehensive Tobacco Legislation*, 1998.

The State Auditor's office did not receive a response from the **Department of Higher Education,** the **Department of Public Safety,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

Fiscal Note Summary

State government revenue will increase by approximately $150 million annually from the tax changes in this proposal. State government revenue from the Master Settlement Agreement may decrease by an unknown amount annually up to approximately $135 million depending on dispute and litigation outcomes. The potential fiscal impact to local governments is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-HJR 11 & 7)

Subject

Truly Agreed To and Finally Passed House Joint Resolution Nos. 11 & 7. (Received May 22, 2013)

Date

June 10, 2013

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Natural Resources,** the **Department of Revenue,** the **Department of Conservation,** the **Office of Administration,** and the **Secretary of State's office.**

Wes Shoemyer provided information as an opponent to the joint resolution to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated they do not anticipate any direct fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Revenue** indicated this resolution will have no impact on their department.

Officials from the **Department of Conservation** indicated that the fiscal impact this proposal would have on their department is unknown, with it being likely less than $100,000 negative fiscal impact. The officials said the department is unable to determine any fiscal impact related to federal funding.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated:

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be $7.1 million based on the cost of the 2012 Presidential Preference Primary. This figure was determined through analyzing and totaling expense reports from the 2012 Presidential Preference Primary received from local election authorities.

The Secretary of State’s office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State’s office is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State’s office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Wes Shoemyer provided the following information as an opponent to the joint resolution to the State Auditor's office.

Proposed Statement of Fiscal Impact
for HJR Nos. 11 & 7

On May 22, HJR Nos. 11 & 7 was received by both the Secretary of State and the State Auditor. The joint resolution would amend article I of the Constitution of Missouri by creating a new section that forever guarantees the right of farmers and ranchers in the state to engage in farming and ranching practices. Specifically, the joint resolution would add new section 35 to read as follows:

> That agriculture which provides food, energy, health benefits, and security is the foundation and stabilizing force of Missouri's economy. To protect this vital sector of Missouri's economy, the right of farmers and ranchers to engage in farming and ranching practices shall be forever guaranteed in this state, subject to duly authorized powers, if any, conferred by article VI of the Constitution of Missouri.

Fiscal Impact Summary

While the fiscal impact of the proposed amendment cannot be determined precisely there is a strong likelihood of significant, negative long-term fiscal impacts including:

- Unknown, but potentially significant, costs for the courts, the Attorney General, and district attorneys due to litigation resulting from alleged violations of this constitutional amendment or declaratory actions intended to clarify the scope of the rights guaranteed by the amendment; and
- The potential loss of millions of dollars of federal funds currently given to state agencies in connection with implementation of federal laws.

Information Submitted Pursuant to Section 23.140.2

The cost of the proposed amendment to the state for the next two fiscal years could be substantial due to increased litigation and loss of federal funding to some state agencies. Indeed, such negative fiscal impacts have the potential to have long-range implications beyond a two-year period.

Potential Increase in Costs Associated with Litigation

The constitutional amendment proposed by HJR Nos. 11 & 7 will likely open the door to costly legal challenges claiming that government actions concerning any subject matter that even tangentially impacts "farming and ranching practices" violate the state constitution. Examples include:

- Whether a state law or regulation that imposes requirements on farms or ranches for the protection of the environment (e.g. requirements relating to animal waste

management, nutrient management, and air pollution) unlawfully infringes upon the right of farmers and ranchers to "engage in farming and ranching practices";

- Whether a state law or regulation relating to odor emissions from farms and ranches unlawfully infringes upon the right of farmers and ranchers to "engage in farming and ranching practices";
- Whether a state law or regulation that requires construction and operating permits for farms or ranches (including requirements relating to buffer distances and neighbor notification) unlawfully infringes upon the right of farmers and ranchers to "engage in farming and ranching practices";
- Whether a state law or regulation relating to food safety requirements (e.g. requirements relating to the sale of eggs or prohibitions relating to adulteration of food products) unlawfully infringes upon the right of farmers and ranchers to "engage in farming and ranching practices";
- Whether a state law prohibiting cruelty to animals unlawfully infringes upon the right of farmers and ranchers to "engage in farming and ranching practices"; and
- Whether a state labor law or labor regulation that applies to farming and ranching businesses unlawfully infringes upon the right of farmers and ranchers to "engage in farming and ranching practices.
- Whether state statutory and regulatory framework regulating the treatment of dogs at puppy mills/large-scale dog breeding operations (e.g. Missouri's Canine Cruelty Prevention Act) unlawfully infringes upon the right of farmers and ranchers to "engage in farming and ranching practices."

Under these circumstances, the state would incur significant additional costs to process and hear these cases. The Attorney General and local district attorneys may also incur costs as those offices review and respond to allegations of violations of the amendment and actions for declaratory judgment. The magnitude of these various costs is unknown but would likely be significant given the sweeping and vague nature of the constitutional amendment, depending on the number of cases filed and how they are adjudicated by the courts.

Loss of Federal Funding to State Agencies

The proposed amendment could also result in the loss of millions of dollars of federal funding to state agencies charged with implementing federal law within the state. For example, the Missouri Department of Natural Resources ("DNR"), through agreement with the federal Environmental Protection Agency ("EPA"), is charged with carrying out the requirements of federal environmental laws such as the Clean Water Act and the Clean Air Act. According to the DNR's FY 2014 Budget Request Governor's Recommendations, $25.6 million of federal funds are needed to perform Water Protection Operations and Water Quality Studies Private Sector Development in Missouri. The federal Clean Water Act and federal Safe Drinking Water Act are the primary authorities listed for these activities. An additional $5.8 million was requested to fund the Missouri Department of Environmental Quality's Environmental Services Operations for FY 2014. The Environmental Services Program takes joint authorization from the Federal Clean Air Act, the Federal Clean Water Act, and the Federal Safe Drinking Water Act.

If state enforcement of environmental laws were found to infringe on the constitutionally-protected right of farmers and ranchers to "engage in farming and ranching practices," the

DNR would no longer be able to implement these programs and the EPA would have to take over, resulting in a loss of millions in federal funding.

Other factors

The proposed amendment would neither establish a new program or agency nor duplicate an existing program or agency. However, as discussed above, the proposed amendment has the potential to substantially affect state agencies such as the Department of Natural Resources via removal of millions of dollars of federal funding given each year for the purpose of executing federal environmental law mandates.

The proposed amendment is not a federal mandate.

No new program or agency is being created; therefore, there is no new program or agency that will have a direct fiscal impact on any political subdivision of the state.

No new physical facilities will be required by the proposed amendment.

The proposed amendment has the potential to have a significant negative impact on small businesses in Missouri. For example, there are numerous consulting firms throughout Missouri that assist businesses, including farms and ranches, with statutory and regulatory compliance relating to state environmental, labor, and safety laws. If these laws are found to infringe on a constitutionally-protected right to engage in farming and ranching practices, these small firms could potentially lose a significant portion of their business.

Fiscal Note Summary

The potential costs or savings to governmental entities are unknown, but likely limited unless the resolution leads to increased litigation costs and/or the loss of federal funding.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-HJR 16)

Subject

Truly Agreed To and Finally Passed House Joint Resolution No. 16. (Received May 22, 2013)

Date

June 10, 2013

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November, 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Revenue,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Secretary of State's office,** the **Office of the State Public Defender,** and the **Missouri Office of Prosecution Services**.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Revenue** indicated this resolution will have no impact on their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated:

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2

RSMo requires the state to pay the costs. The cost of the special election has been estimated to be $7.1 million based on the cost of the 2012 Presidential Preference Primary. This figure was determined through analyzing and totaling expense reports from the 2012 Presidential Preference Primary received from local election authorities.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated the total estimated costs for their agency would be $1,375,237 for fiscal year 2014, $1,547,518 for fiscal year 2015, and $1,565,436 for fiscal year 2016.

They indicated this House Joint Resolution will have an impact on their system. The claim, they believe, is that only 20% of these cases are now being charged. If the number is increased from 20% being charged to 100% being charged that is a five-fold increase. The question is 5 times what number - Of all our statutory sex cases? or of all statutory sex cases with propensity evidence? It is not clear what the claim is. But certainly they think it's safe to say the joint resolution will have an impact on their system.

In fiscal year 2012, their office provided representation in 496 statutory sex cases. These cases are generally charged as A/B Felony cases. Per NAC standards attorney time can provide representation in 150 felonies each year. If you assume just 80% are now charged rather than 20% an additional 1984 statutory sex cases could be charged. 1984 sex cases divided by 150 sex cases per year per attorney yields an additional 13 public defender attorneys. The cost of 13 additional attorneys and adequate support and the expense and equipment to support them is approximately $1.5 million.

Officials from the **Missouri Office of Prosecution Services** indicated no measurable fiscal impact to their office.

Fiscal Note Summary

If more resources are needed to defend increased prosecutions additional costs to governmental entities could be at least $1.4 million annually, otherwise the fiscal impact is expected to be limited.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-HJR 72)

Subject

Truly Agreed To and Finally Passed House Joint Resolution No. 72. (Received May 30, 2014)

Date

June 23, 2014

Description

This proposal would amend Article IV of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated they defer to the Office of Administration fiscal note estimate for this bill.

Officials from the **Department of Economic Development** indicated there doesn't appear to be a cost or savings associated with the HJR; however, there could potentially be an issue with the "equal quarterly allotments."

Currently the Tourism appropriation has quarterly allotments set up as 40/20/20/20. This is due to the amount of expenditures that are processed during the first quarter of each fiscal year. For Tourism it is a timing issue related to their marketing campaign. Those expenses are incurred toward the end of one fiscal year, but invoices are not received until the July/August timeframe which is the following fiscal year. In order to have sufficient funds to make those payments, more allotment is required at the beginning of the fiscal year.

Officials from the **Department of Higher Education** indicated there would be no direct fiscal impact on the department.

Officials from the **Department of Health and Senior Services** indicated an unknown impact. The impact on their department cannot be quantified.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the fiscal impact of this house joint resolution on their department is unknown and cannot be quantified. There may be some issues with dealing with appropriations that are not expended in equal quarterly increments. This could affect a couple of appropriations in the department. It could also have an impact on encumbering funds for long-term contracts such as for food that have to be bid in advance in order to ensure delivery in the 4th quarter of the year.

Officials from the **Department of Labor and Industrial Relations** indicated an unknown estimated net effect on federal funds and no fiscal impact on state and local funds.

There are scenarios in which a 1st quarter allocation of 25% of the appropriation would not be adequate, however, it is not possible to know if or when those scenarios would occur. Having the 1st quarter allocation set at 40% of the appropriation has allowed the DOLIR to deal with a majority of issues in the past.

If allocations were set at 25% each quarter instead of frontloading the allocations with 40% in the 1st quarter and 20% for each quarter thereafter, DOLIR anticipates the following potentially negative effects:

1. For small appropriations, a small encumbrance or one large expenditure in the first quarter could easily cause over 25% of the appropriation to be committed.

2. There are "special" situations where DOLIR has to move allotments as a part of doing regular business. For example:

    - The Federal Interest Payments (0949) is paid once a year in the first quarter of the state fiscal year (last quarter of the federal fiscal year). As long as there is an interest payment, allocations will most likely have to be moved to cover this payment.
    - Line of Duty payments are unpredictable (Approp T167 and 5544).
    - In FY 2015, the DWC Admin Work Comp E&E (fund 0652, approp 0693) includes funding for the DWC Computer Modernization Project. If a contract is established and encumbered for this project in the first two quarters, allocations will have to be adjusted.

3. Cash availability

    - Cash from federal and other sources is not always available in quarterly allotments. Sometimes one appropriation will have to be hit harder in one quarter and less in another quarter.
    - If cash for the Second Injury Fund Claims payments (fund 0939, approp 4636) would be available at the rate of 30% or 35% of the appropriation in the 1st quarter of the state fiscal year, DOLIR would need the ability to be able to pay the cash out in claims instead of holding until the next quarter.

Given these scenarios, if the 1st quarter's allotment was set at 25% of the appropriation, DOLIR assumes there would be an increased need to move allotments forward.

Officials from the **Department of Revenue** indicated this legislation may have a fiscal impact on their department. The changes allow the General Assembly to accept or reject reductions of appropriations of money. If an entity does business with small a business, and that entity's appropriations is reduced—that entity may not be able to contract with a small business.

The proposed changes will not affect the amount of money brought into the total state revenue. It <u>will</u> change how the money is spent.

Section 27(3): allows the General Assembly to accept or reject reductions of appropriated money proposed by the governor.

Section 24: The governor can no longer consider new revenues from proposed legislation. Unspent fund balances from the prior year may be included in the estimate.

Section 27 (1). The governor cannot reduce expenditures for the payment of principal and interest on public debt.

Section 27 (2). The governor is required to notify the general assembly when any appropriation will not be expended in equal quarterly allotments.

Section 27(3): the General Assembly will now have the power to accept or reject the amount of appropriations to the Department of Revenue, potentially changing the department's budget.

Officials from the **Department of Public Safety** indicated they have some concerns regarding HJR 72:

Payments they issue for the programs they manage have times when the number of payments and total reimbursement amount for these payments surge, especially in their Crime Victim Compensation Program, and there may not be the appropriate level of appropriation allotment available to process those reimbursement to their victims of crime.

Another area where they have concern is with their POST Distribution, which is the distribution of funds for POST certified training for the state's police officers to maintain their certification. The funds are collected during the entire fiscal year, and then have to be paid out by October 1 of the following fiscal year, per rules in place. The distribution of funds due out October 1 would not be possible with equal quarterly appropriation allotments.

Other divisions are concerned there may be an impact on federal fund appropriations, if there is a need to wait for session, in penalties.

Officials from the **Department of Social Services** indicated this ballot proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicted:

HJR 72 amends Sections 24 and 27 to Article IV of Missouri Constitution and is related to the Governor's budgetary authority.

The HJR will impact the Office of Administration and the administration of the state budget as mentioned below.

HJR 72 allows the General Assembly to reconsider any actions taken by the Governor to reduce one or more items or portions of items of appropriations as a result of actual revenues being less than the revenue estimates upon which the appropriations were based. This language provides no clear method by which the budget would be kept in balance, leaving the state with unpaid high-priority bills and no revenue to pay those bills. All three of the national rating agencies have clearly stated that the Governor's authority to maintain budget balance through expenditure restrictions is a critical component of the state's fiscal management and its high rating.

The provision which prohibits the Governor from reducing any appropriation for payment of public debt should have no impact as payment of public debt is the first priority for expenditure of state funds.

The changes to section 27 appear to conflict with, and would effectively create an exception to, the separation of powers provisions of the Missouri Constitution, under Article II, Section 1 and Article IV, Section 1.

HJR 72 also prohibits the Governor from controlling the rate of spending by any means other than allotments. Reconsidering allotments after the fiscal year spending has commenced could create various problems for state budget administration:

- Expenditures are planned and made based on the original allotments. If the General Assembly later reconsiders those allotments and expenditures have already been made, it will be impossible to redo the allotments.
- Reconsidering allotments could impact the state's ability to pay bills due to cash flow issues. Some allotments are loaded at the end of the fiscal year because cash is not available until the end of the year. If the General Assembly reconsiders those allotments, there could be cash flow issues, such as delayed payments. In addition, some allotments are moved forward to the first quarter to make required payments, such as from the Legal Expense Fund. If the General Assembly reconsiders these allotment changes, the state would be unable to pay court costs, legal fees and/or settlements.
- Reconsidering the allotment schedule could force the state to cancel contracts if sufficient allotment authority is unavailable to pay for the contracts. While the contracts could possibly be rebid on a smaller scale or amended to include fewer services, there would be additional staff costs and potential contract costs related to redoing the contract.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this Joint Resolution has no fiscal impact to their agency beyond existing appropriations.

Officials from the **Secretary of State's office** indicated there will be no fiscal impact to their office.

Officials from the **Office of the State Public Defender** indicated the House Joint Resolution will impact their office to the extent the Governor withholds appropriated funds.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Kansas City** indicated the house joint resolution has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated that it is unknown how this might impact their city.

Officials from the **Rockwood R-VI School District** indicated on page 3, line 7 - it may be difficult for the Governor to identify those appropriations that are not spent ratably by quarter.

Officials from the **University of Missouri** indicated this House Joint Resolution would have a fiscal impact on their university but it is difficult to anticipate the exact impact without knowing the state's actual fiscal situation during the particular point in time at which this provision could be used.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College**.

Fiscal Note Summary

State governmental entities expect no direct costs or savings. Local governmental entities expect an unknown fiscal impact.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-HJR 90)

Subject

Truly Agreed To and Finally Passed House Joint Resolution No. 90. (Received May 30, 2014)

Date

June 23, 2014

Description

This proposal would amend Article VIII of the Constitution of Missouri.

The amendment is to be voted on in November 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Board of Election, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Election Board.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the joint resolution.

Officials from the **Department of Higher Education** indicated there would be no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this House Joint Resolution is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated there is no fiscal impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this resolution will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this joint resolution.

Officials from the **Department of Social Services** indicated this ballot proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

HJR 90 amends Article VIII the Missouri Constitution by adding the new Section 11 and is related to early voting.

The HJR has no impact on the Office of Administration.

HJR 90 will impact the Secretary of State as it allows for an early voting period and specifies when and how the early voting process will be implemented. Protections for the unauthorized release of early voters' identity are included in HJR 90 and local election authorities are prohibited from incurring additional expenses related to early voting unless a specific state appropriation is made for that purpose.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this House Joint Resolution has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated:

This joint resolution requires local election authorities to conduct early voting at the local election authority's location for all general elections. The early voting period shall take place during the six business days, not including Saturday or Sunday, immediately prior to and including the last Wednesday prior to election day. Local election authorities shall appoint at least one election judge from each major political party to serve at the early voting site of the local election authority.

Each early voting location at the local election authority's office may be staffed by two election judges paid $9 per hour for the 6 days that it will be open for voting during regular business hours – a total of $100,224 per election.

Subsection 2 of Section 11 states that no local election authority shall, in advance of the day of the election, disclose the identity of any qualified voter who, in advance of the day of the election, has cast or has not cast a ballot, unless the qualified voter has authorized the disclosure. A qualified voter's authorization must be in writing, signed by the qualified voter, dated, and delivered to the Secretary of State. In order for the Secretary of State to process these authorization forms and to notify local election authorities of such authorization, there is a cost of $8,800 in updates to MCVR. Furthermore, in order for each registered voter to have notice of the opportunity to provide such authorization, the

Secretary of State will send a mailer to all registered voters to notify them prior to the first general election after the passage of this resolution. At 4,052,199 registered voters x $.49 postage, printing and processing, the total cost for this notice is $1,985,577.51. This cost will not be re-occurring, as the Secretary of State will attempt to incorporate such notice onto voter registration paperwork to provide notice to newly registered voters.

FY 2016
FY 2016 Total: $0

FY 2017
$2,094,601.51
FY 2017 Total $2,094,601.51

Officials from the **Office of the State Public Defender** indicated this house joint resolution will not have any substantial impact on their office other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Boone County** indicated:

Presidential Election cost estimate: Boone County

Mail "no excuse" ballots cost approximately 13.00 per unit to prepare, mail and process. Other states with no excuse absentee mail that have up to 40% to 90% of ballots cast by mail. Because it is only 6 days we estimate 15% of total votes - less the 500 current mail ballots.

13,000 x 13.00 = $169,000

In person no excuse cost approximately 6.00 per unit to prepare and process without an affidavit envelope and 9.00 with an affidavit envelope. Can't tell from this if affidavit will be required.

States with 3 week early voting have 40 to 60% of ballots cast at early voting locations. Because this is only 6 days then I will estimate lower at 25%

22,500 units at 6.00 = $135,000
22,500 units at 9.00 = $202,500

Additional non polling place ballots = $42,000

Total estimate for HJR 90 for 2016 Presidential Election - $346,500 to $414,000

Officials from **St. Louis County** indicated:

Memorandum

To: SAO Fiscal Note

Return to: fiscalnote@auditor.mo.gov

From: Senator Rita Heard Days and Gary Fuhr
St. Louis County Directors of Elections

Date: June 2, 2014

RE: K1 – HJR 90

SCS HCS HJR 90 Proposes a constitutional amendment for advance voting.

This proposal creates a system to allow voters to cast advance ballots at a central voting location. Registered voters will be able vote by advanced voting during the six business days, not to include Saturday or Sunday, immediately prior to and including the last Wednesday prior to the Election Day.

Assumptions: This bill does not require paper ballots. The intent of this note is to delineate all direct costs (one-time, startup and recurring) to the LEA.

Advanced Voting Site Costs

	Operating Days	Number of Sites	Site Rental	Number of Elections	Total
Site Lease	6	1	$ 2,500.00	3	$ 7,500.00
High-speed Internet		1	$ 165.00	3	$ 495.00
24 hour security services	6	1	$ 240.00	3	$ 4,320.00
				Total advanced voting site costs:	**$ 12,315.00**

Part-time labor

	Operating Days	Number of Sites	Number of Workers per Site	Labor per worker per hour	Number of Elections	Total
Labor	6	1	2	$ 16.03	3	$ 4,616.64
Labor	6	1	12	$ 15.00	3	$ 25,920.00
Social Security @ 7.65%					3	$ 2,336.05
6 Hour Training Class				$ 15.00	3	$ 540.00
					Total annual labor costs:	**$ 33,412.69**

Total annual location and labor costs: $ 45,727.69

Non-recurring, startup costs:

Equipment	Cost	Number of Sites	Qty per Site	Total
Laptops	$ 1,000.00	1	4	$ 4,000.00
Printers	$ 1,000.00	1	1	$ 1,000.00
Tables, chairs, signs, posters, etc...	$ 400.00	1		$ 400.00
			Total non-recurring costs:	**$ 5,400.00**

Total costs 1st year:	**$ 63,442.69**
Total costs 2nd year:	**$ 15,242.56**
Total costs 3rd year:	**$ 45,727.69**

Officials from the **City of Kansas City** indicated they estimate that HJR 90 has no costs or savings to their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **Rockwood R-VI School District** indicated on page 3, line 13 - it may be difficult in some local elections to find a person willing to serve from each major political party.

Officials from the **University of Missouri** indicated this Joint Resolution will have no fiscal impact on their university.

Officials from the **St. Louis County Board of Elections** indicated:

Memorandum

To: SAO Fiscal Note

Return to: fiscalnote@auditor.mo.gov

From: Senator Rita Heard Days and Gary Fuhr
St. Louis County Directors of Elections

Date: June 2, 2014

RE: K1 – HJR 90

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6 Hour Training Class				$ 15.00	3	$ 540.00
					Total annual labor costs:	**$ 33,412.69**

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Printers	$ 1,000.00	1	1	$ 1,000.00
Tables, chairs, signs, posters, etc...	$ 400.00	1		$ 400.00
			Total non-recurring costs:	**$ 5,400.00**

Total costs 1st year:	**$ 63,442.69**
Total costs 2nd year:	**$ 15,242.56**
Total costs 3rd year:	**$ 45,727.69**

Officials from the **St. Louis City Election Board** indicated:

The attached costs are based on 2 elections in 2016 based on a prediction of 20% voter turnout from approximately 225,000 registered voters. Although this bill requires the voter the option to vote by mail during the early voting period of six business days it does not allow for the ballot application request time needed prior to mailing the actual ballots. We included cost allowances to reflect mailing a separate early voting ballot application which includes envelopes and postage.

Part-time Labor						
	Operating Days	Number of Sites	Number of Workers per Site	Labor per Worker per hour	Number of Elections	Total:
Labor	6	1	6	$ 15.50	2	$ 1,488.00
6 hour training class				$ 15.50	2	$ 186.00
Total Annual Labor Costs:						**$ 1,674.00**

Non-recurring, startup costs			
	Cost	Qty	Total
Laptops	$ 1,000.00	4	$4,000.00
Printers	$ 1,000.00	1	$1,000.00
Tables, chairs, signs, posters, etc...	$ 400.00		$ 400.00
Total Non-recurring, startup costs			**$5,400.00**
Ballots & Applications			
	Cost per voter	Cost for 45,160 voters (20% of 225,800)	
Postage for mailing application	0.48	$ 21,676.80	
Envelope for mailing application	0.05738	$ 2,591.28	
Paper for mailing application (Instructions + application)	0.013768	$ 621.76	
Postage for returned application	0.58	$ 26,192.80	
Envelope for returned application	0.05303	$ 2,394.83	
Postage for mailing ballot	0.86	$ 38,837.60	
Envelope for mailing ballot	0.095	$ 4,290.20	
Paper for mailing ballot (Instructions)	0.006884	$ 310.88	
Ballot	1.22	$ 55,095.20	
Postage for returned ballot	1.31	$ 59,159.60	
Envelope for returned ballot	0.095	$ 4,290.20	
Total Ballot & Application Cost	$ 4.77	**$ 215,461.16**	
For 2 elections		**$ 430,922.32**	

Total Cost for two statewide elections:	**$ 437,996.32**

Officials from the **Kansas City Election Board** indicated:

The fiscal impact of HJR 90 on our operations would be approximately $32,570 for a general election. We anticipate that we would bring in 16 judges, 4 Verification Asst. Specialists, 1 Technician and rent additional space at our location to process about 5000 voters during this 6-day period. The cost breakdown would be as follows:

8 Supervisory Judges	$7920
8 Regular Judges	$6000
4 Verification Asst. Spec.	$3960
1 Technician	$990
Training	$500
Equipment Rental	$2000
Rental space	$1200
Parking	$5000
Supplies	$3000
Postage	$2000
Total	$32,570

Officials from the **Platte County Board of Election Commissioners** indicated:

Our local government estimates the fiscal impact of the above-referenced bill for fiscal years 2015, 2016 and 2017 to be as follows:

They expect no change in revenues or savings

They expect the following increased costs:

Election judges	$1,200
Postage estimate	$1,200
Extra ballots	$2,000
Total per election	$4,400

Officials from the **Jackson County Election Board** indicated:

Increased postage cost for mailing ballots to voters choosing to vote during the six day period by mail:	$ 10,000 - $15,000
Staffing the office with extra judges for the six day early voting period:	$ 4,000 - $ 5,000

Printing of extra full page ballots for the six day period: $ 4,000 - $ 5,000

TOTAL COST FOR THE SIX DAY EARLY VOTING PERIOD COULD TOTAL $18,000 - $20,000

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Linn State Technical College, Metropolitan Community College, St. Louis Community College,** and **Clay County Election Board**.

Fiscal Note Summary

State governmental entities estimated startup costs of about $2 million and costs to reimburse local election authorities of at least $100,000 per election. Local election authorities estimated higher reimbursable costs per election. Those costs will depend on the compensation, staffing, and planning decisions of election authorities with the total costs being unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-HJR 48)

Subject

Truly Agreed To and Finally Passed House Joint Resolution No. 48. (Received May 30, 2014)

Date

June 12, 2014

Description

This proposal would amend Article III of the Constitution of Missouri.

The amendment is to be voted on in August 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Lottery Commission.**

State Senator Wayne Wallingford provided information to the State Auditor's office on this resolution.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the joint resolution.

Officials from the **Department of Elementary and Secondary Education** indicated:

DESE has received Lottery funds since 1994. During the last five fiscal years, DESE has received the following proceeds from Lottery sales:

2009	$181,949,215
2010	$179,434,984
2011	$163,619,956
2012	$165,081,892
2013	$180,775,146

Developing a "Veteran's Lottery Ticket" and depositing the proceeds into the veterans' commission capital improvements trust fund will likely significantly impact DESE's proceeds; however, we cannot determine to what extent.

Officials from the **Department of Higher Education** indicated there would be no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this House Joint Resolution is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated there is no fiscal impact for their department.
Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this legislation will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for all divisions other than Veterans Commission for this joint resolution. Veterans Commission defers to the response from Lottery for the fiscal impact.

Officials from the **Department of Social Services** indicated this ballot proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

HJR 48 amends Section 39(b) to Article III of the Missouri Constitution and is related to the Missouri State Lottery.

The HJR has no impact on their office.

The HJR requires creation of a new "Veterans Lottery Ticket" no later than July 1, 2015. Net proceeds from the sales of these tickets will be deposited in the Veterans Commission Capital Improvement Trust Fund. To the extent that lottery proceeds currently going to education are instead deposited to the Veterans' Commission Capital Improvement Trust Fund, there could be unknown budgetary impacts.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this House Joint Resolution has no fiscal impact to their agency beyond existing appropriations.

Officials from the **Secretary of State's office** indicated they have determined there will be no fiscal impact to their office.

Officials from the **Office of the State Public Defender** indicated the House Joint Resolution will not have any substantial impact on their office other than if revenues are significantly changed.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Kansas City** indicated they estimate that HJR 48 has not costs or savings to their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this bill would have no direct financial impact on their city.

Officials from the **University of Missouri** indicated this House Joint Resolution will have no fiscal impact on their university.

Officials from the **Missouri Lottery Commission** indicated:

HJR 48 requires the Lottery to develop and sell a veterans lottery ticket, net proceeds from which are to be deposited in the veteran's commission capital improvements trust fund.

Lottery proceeds net of prizes and administrative expenses are currently appropriated solely to public education. The resolution would divert lottery proceeds funding away from education. Overall sales and expenditures are assumed to be unaffected; the veterans' lottery ticket instead would displace an equivalent existing game. The resulting shortfall in education funding would have to be absorbed with General Revenue funding, negatively impacting Total State Revenue. In addition, the resolution may set a precedent for other groups to pursue lottery proceeds to fund their activities, diverting even more funding away from public education.

If a $2 instant game ticket is assumed, the annual displaced fiscal impact is estimated to be negative $2,375,743 in FY 2016 and negative $2,138,168 in FY 2017. If a $1 instant game ticket is assumed, the annual displaced fiscal impact would be slightly less negative (negative $1,751,823 in FY 2016 and negative $1,576,641 in FY 2017).

When the Lottery began in 1986, proceeds from ticket sales went to General Revenue. In August 1992, voters passed Amendment 11 earmarking Lottery proceeds to solely benefit public education. The above estimates do not include additional FTE costs associated with research, sales, marketing and accounting for a new ticket with a different beneficiary than all current and previous tickets. These costs are unknown and include but are not limited to messaging at retailers and on vending machines, liaising with veterans organizations, conducting research through surveys and town hall meetings, and accounting for and transferring the profit of the new ticket.

State Senator Wayne Wallingford provided the following information:

Data on sales of Veterans Lottery Tickets in other states:

Illinois Veterans lottery ticket was implemented in 2006 and has generated $10 million dollars. Illinois Lottery Commission has seen no difference in lottery ticket sales.

Iowa has pull tab games and have generated 2 to 3 million dollars a year since 2008 for the Veteran's Trust Fund. According to Mary Newbauer with the Iowa Lottery, lottery tickets to benefit veterans have been such a popular cause that they have in turn helped lift overall lottery sales.

In Kansas the Veterans Lottery instant scratch off ticket has generated $10.2 million since 2007 to benefit veteran's program and the Kansas Lottery has not seen a decline in other lottery sales.

Texas Veterans Cash scratch off ticket generated over $20 million from 2009-2012 to go into veteran's services. They did not experience a decrease in overall sales.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College**.

Fiscal Note Summary

The annual cost or savings to state and local governmental entities is unknown, but likely minimal. If sales of a veterans lottery ticket game decrease existing lottery ticket sales, the profits of which fund education, there could be a small annual shift in funding from education to veterans' programs.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-SJR 27)

Subject

Truly Agreed To and Finally Passed Senate Joint Resolution No. 27. (Received May 30, 2014)

Date

June 12, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in August 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the joint resolution.

Officials from the **Department of Higher Education** indicated there would be no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this Senate Joint Resolution is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated there is no fiscal impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this resolution has no fiscal impact on their department. They suggest the phrase "access electronic data or communications" be defined or further clarified.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this joint resolution.

Officials from the **Department of Social Services** indicated this ballot proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

SJR 27 amends Section 15 to Article I of the Missouri Constitution and is related to access of electronic data.

SJR 27 includes protections for electronic communications and data from unreasonable searches and seizures and prohibits warrants being issued to access electronic data or communication without probable cause.

The SJR could impact their office, in particular, through increased costs to the Legal Expense Fund (LEF). The current constitutional protection against unreasonable search and seizure could be a cause of action against a state officer under certain circumstances. They believe the state would have sovereign immunity and the officer would ordinarily be protected by official immunity. However, if the officer conducts a search in a manner that violates constitutional or statutory protections, there could be an exposure. Expanding the current constitutional protections would therefore result in a small, but increased exposure to the LEF.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this senate joint resolution has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated they have determined there will be no fiscal impact to their office.

Officials from the **Office of the State Public Defender** indicated the Senate Joint Resolution will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Kansas City** indicated they estimate that SJR 27 has no costs or savings to their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this bill should have no fiscal impact on their city.

Officials from the **University of Missouri** indicated this Senate Joint Resolution will have no fiscal impact on their university.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College**.

Fiscal Note Summary

State and local governmental entities expect no significant costs or savings.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-SJR 36)

Subject

Truly Agreed To and Finally Passed Senate Joint Resolution No. 36. (Received May 30, 2014)

Date

June 12, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in August 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, University of Missouri** and **St. Louis Community College.**

Mark R. Reading provided information as an opponent of the resolution to the State Auditor's office.

Blake M. Lawrence provided information as an opponent of the resolution to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated the proposal states that the state is "obligated to uphold" and cannot "decline to protect" certain rights. They indicated significant litigation may ensue if this resolution requires their office to bring suit, particularly if it is required to represent individual Missourians. The costs are unknown.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the joint resolution.

Officials from the **Department of Higher Education** indicated there would be no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this Senate Joint Resolution is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated there is no fiscal impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this Joint Resolution has no fiscal impact on their department. They do have the following comment:

The changes state that only persons with a "violent felony" conviction can have their right to bear arms infringed upon. Missouri statute does not define "violent felony."

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this joint resolution.

Officials from the **Department of Social Services** indicated this ballot proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

SJR 36 amends Section 23 to Article I of the Missouri Constitution and is related to the right to keep and bear arms.

SJR 36 clarifies that citizens have the right to bear arms and ammunition and accessories, allows the right to bear arms in defense of family in addition to home, person and property, and eliminates the exception for concealed weapons. The state of Missouri must protect against the infringement of these rights and the General Assembly may enact laws to limit access to guns for convicted violent felons and those adjudicated to be a danger to self or others as a result of mental illness.

The SJR could impact their office through increased costs to the Legal Expense Fund. Section 23 states that the state is obligated to uphold and cannot decline to protect certain rights. This could result in litigation which would increase costs to the Legal Expense Fund significantly.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this Senate Joint Resolution has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated they have determined there will be no fiscal impact to their office.

Officials from the **Office of the State Public Defender** indicated this new legislation will likely lead to legal challenges to various gun laws on behalf of public defender clients in the context of their criminal prosecutions, both in the trial and appellate courts the exact costs not able to be determined. There would be additional filing of writs and additional appeals, which would add public defender costs.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Kansas City** indicated:

Our local government estimates the fiscal impact of the above-referenced bill for fiscal years 2015, 2016 and 2017 to be as follows:

This legislation will have no fiscal impact on the revenues of the city.

This legislation will have no fiscal impact by providing any savings to the city.

If the voters adopt an amendment to Section 23 of Article I as proposed by this legislation there will be costs of an indeterminate amount to the city. The adoption of such proposed amendment would subject Kansas City firearms ordinances prohibiting the unlawful concealment or transportation of weapons to strict scrutiny and, because the proposed amendment states the right to bear arms is unalienable and deletes the current language regarding concealed weapons, would probably have the effect of abrogating all such ordinances. Such abrogation would occur quickly given the proposed amendment's commandment to the state to defend such amendment's proposed extended firearms' rights. The resulting increase in violence and mayhem following the abrogation of said Kansas City firearms ordinances will require Kansas City to increase the amount of money it expends on its police department, municipal courts and neighborhood programs.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this Senate Joint Resolution will have no fiscal impact on their university.

Mark R. Reading provided the following information as an opponent of this resolution.

Fiscal Impact Information Submitted Pursuant to Section 23.140.2

The cost of the proposed amendment to the state for the next two fiscal years is substantial.

ESTIMATED NET EFFECT ON STATE FUNDS		
Fund Affected	**FY 2015**	**FY 2016**
General Revenue	($12,503,051)	($204,683,377)
Total Estimated Net Effect on All State Funds	**($17,384,205)**	**($219,027,405)**
ESTIMATED NET EFFECT ON LOCAL FUNDS		
Local Funds	($9,065,000)	($24,850,000)
Total Estimated Net Effect on All Local Funds	**($9,065,000)**	**($24,850,000)**

Fiscal Summary Recommendation

Based on the analysis of the measure provided in this fiscal impact statement the cost in FY 2016 to general revenue is $219 million to unknown for direct costs to state agencies, reimbursements needed to local governments as the result of increased activities or the change in proportion in the activities or services required, and loss of revenue. Additional federal fund and other fund costs to the state add an additional $14.3 million to unknown. Local government costs are estimated to be $24.85 million to unknown including the loss of revenue.

"The cost to state or local government is between $243.9 million and unknown depending upon substantial expected litigation related to the amendment."

Proposed Statement of Fiscal Impact submitted to the Missouri State Auditor's Office for SJR 36 passed by the General Assembly

Introduction

The Missouri General Assembly passed SJR 36 which would make changes to the Missouri Constitution (Article I, Section 23) regarding the right to bears arms provision. Missouri voters will vote on the proposed constitutional amendment in the August 2014 election.

Many states have passed laws affecting the possession and carrying of firearms over the past several years, including New York, Colorado, Connecticut, and Maryland.

In 2012, Louisiana passed a gun law constitutional amendment that is similar to SJR 36. Louisiana voters approved the change to their constitution (SB 303 Act 874) at the November 2012 election. The link below leads to the legislative approved version with the changes identified.

http://www.legis.la.gov/legis/ViewDocument.aspx?d=812575&n=SB303 Act 874

The Louisiana amendment changed three things:

- provided that the right is fundamental and cannot be infringed
- eliminated a provision that indicated that the provision shall not prevent the passage of laws to prohibit the carrying of concealed weapons
- added a new provision that any restriction on this right shall be subject to judicial strict scrutiny

Missouri's SJR 36 is similar but goes further. If passed it will likely go further than any right to bear arms provision in the country. SJR 36 would alter the Missouri constitution by:

- adding the right to keep and bear ammunition and accessories typical to the normal function of such arms
- adding "family" to the list of things that a person has a right to keep and bear arms to defend
- eliminating a provision that said the constitution "shall not justify the wearing of concealed weapons"
- adding that the rights guaranteed shall be unalienable
- adding that any restriction shall be subject to judicial strict scrutiny
- obligating the state of Missouri "to uphold these rights and . . . under no circumstances decline to protect against their infringement"
- adding a provision that nothing in the section shall be construed to prevent the legislature "from enacting general laws which limit the rights of convicted violent felons or those adjudicated by a court to be a danger to self or others as a result of a mental disorder or mental infirmity."

This fiscal analysis is focused on how and where SJR 36 costs will show up in the State of Missouri's budget and local government budgets. The analysis uses as a guide the experience of Louisiana in the 18 months since its enactment of a similar constitutional amendment. The analysis also explains the possible impact on the state and local government budgets of the additional, more far reaching provisions contained in the Missouri amendment. In addition, the analysis explains how Missouri's Hancock amendment may also affect the costs facing the state budget.

A simple internet search and a few phone calls made it clear that the opportunity to participate in estimating the cost of and providing a fiscal note for SJR 36 needs to at least go to the agencies listed below. The Oversight Division's fiscal note may be seriously deficient.

State agencies - all state agencies but particularly the Office of Administration, Public Safety, Conservation, Judiciary, Public Defender, Natural Resources, Elementary and Secondary Education, Higher Education, Economic Development, Corrections, and Mental Health.

County and local governments - particularly agencies involved in public safety (jails, sheriffs, prosecutors), local schools, public transportation, and tourism and convention bureaus.

Louisiana Experience

The Louisiana Legislative Fiscal Office did not prepare a fiscal note for Louisiana's 2012 constitutional amendment . However, news reports and articles from various organizations have noted that the passage of the Louisiana constitutional amendment led to a variety of lawsuits as lawyers, defendants, and prosecutors worked to determine the impact of the new provisions, imposing significant workload and related costs on the Louisiana government. Several lawsuits prompted by Louisiana's gun law amendment have already been litigated all the way to the Louisiana Supreme Court; many others are making their way through the state's lower courts, requiring significant time, effort, and expenditures by Louisiana's public defenders and district attorney's offices. The following web links provide information about the cases already adjudicated and others ongoing and expected. The implications of the Louisiana experience on possible Missouri budget costs is further discussed in the individual sections in this fiscal analysis.

First, as described in the link below, before the election in Louisiana, the District Attorney for Orleans Parish suggested that passage of the constitutional changes would result in costs and some unanticipated side effects. The prediction has proved prescient.

http://www.nola.com/opinions/index.ssf/2012/11/amendment_2_is_a_risky_idea_fo.html

Indeed, some of these unanticipated side effects have come to pass. Most alarmingly, a judge in Jefferson Parish's 24th Judicial District applied judicial strict scrutiny and held the state's prohibition on felons owning and using guns unconstitutional in a case involved two felons — a 27 year old with five felony narcotics convictions, and a 31 year old with a felony battery and marijuana distribution convictions — who were arrested in connection with a drive-by shooting of an 11-year-old boy. They were charged with murder and attempted murder, and with illegally possessing guns as felons. The judge threw out the felon-in-possession charges because of Louisiana's gun law amendment. As explained in the link that follows, the state Supreme Court is now hearing an appeal of the decision. But the case is illustrative of the potential costs of a provision like SJR 36.

http://www.nola.com/crime/index.ssf/2014/05/louisiana_supreme_court_consid_1.html

Similarly, a short article published in the Louisiana Law Review in April 2014 documents other significant litigation has already occurred in the 18 months since Louisiana voters approved their gun law amendment. The piece describes two time-consuming and costly lawsuits, which challenged the state's felon-in-possession law, its ban on juvenile gun possession, and it's concealed carry law. As in Louisiana, if Missouri voters approved SJR 36, the state would almost inevitably bear the costs of defending lawsuits challenging similar laws in Missouri.

http://lawreview.law.lsu.edu/2014/04/04/up-in-smoke-an-update-on-louisianas-right-to-bear-arms/

Finally, an earlier, longer article published in the fall of 2013 by the Louisiana Law Review explains the types of legal cases that are arising as a result of the Louisiana's gun law amendment and its interaction with U.S. Supreme Court and other federal court decisions on the right to bear arms. Again, Missouri courts would be inundated with similar cases if SJR 36 passed, imposing serious costs on Missouri's public defenders, prosecutors, and judiciary that would ultimately be passed on to the state's taxpayers.

http://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=6438&context=lalrev

Litigation Costs in Missouri

As explained above, the most immediate hit to the state budget if SJR passed would be litigation costs. Louisiana has experienced a burst of litigation as prosecutors, public defenders, civil and criminal lawyers test the limits of the gun law constitutional amendment. Such cases that Missouri should expect include, but are not limited to, challenges to the following provisions in Missouri law

- the prohibition on gun possession by fugitives;
- the prohibition on gun possession by children under the age of 18;
- the requirement that a person get a permit, a criminal background check, and firearms safety training before carrying a concealed, loaded gun in public;
- the restrictions on carrying guns in sensitive places such as K-12 schools, colleges and universities, bars, child care facilities, hospitals, police stations, jails, houses of worship, government buildings, stadiums, and amusement parks;
- the prohibition on gun possession by criminals convicted of nonviolent felonies; and
- the prohibition on gun possession by people habitually in an intoxicated or drugged condition.

In Louisiana, the first case affecting the workload of several public agencies was filed in Orleans Parish and challenged the state law prohibiting gun possession by convicted felons. Once this defense was used word quickly spread and dozens of similar motions were filed as other public defenders and criminal defense lawyers used the gun law amendment to challenge the constitutionality of Louisiana gun laws as they applied to their clients.

In Missouri this also likely to be one of the first places where there is an impact on the budgetary resources of the state. The budget for the Missouri Public Defender's Office has been a subject of serious concern and debate over the past ten years regarding its ability to properly defend clients given limited resources for high caseloads.

SJR 36 includes the following passage:

> "the state of Missouri shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement."

This obligation would be one of the most dramatic statements of the intent to pay any cost that would exist in the Missouri Constitution. The provision most like this statement in the current Missouri Constitution is in Article IV, Section 30 (b) that provides that funds for the Missouri Department of Transportation (MODOT) shall:

> "stand appropriated without legislative action to be used and expended by the highways and transportation commission for the following purposes."

The language in SJR 36 therefore appears to ensure that the state would bear <u>any</u> expense to defend the right to bear arms (emphasis added). The language explicitly states that under "<u>no</u> circumstances" (emphasis added) can the state decline to protect those rights. In effect SJR 36 would create what is commonly referred to in the Missouri state budget as "E" appropriations for these costs. "E" or estimated appropriations allow Missouri state government agencies to pay whatever costs are incurred for the specific purpose for which they are provided. The "E" appropriations have been subject to debate between the Governor, legislature, and the courts over the years. Given the SJR 36 language, it is unclear whether an appropriation would be required or whether the funding would stand appropriated as is the MODOT funding. However, even if an appropriation would be required it appears that it would have to be unlimited since the state cannot decline to protect these rights. Presumably the inclusion of this language would be given significant weight by the General Assembly, the Governor's Office, the Missouri Attorney General's Office, the Missouri State Public Defender office, and the Missouri Supreme Court.

The litigation costs of the state would be borne by the Missouri State Public Defender office and the Attorney General's office. It should be expected that these costs would be highest during the first three to five years of the act as the state's laws and regulations are tested in the courts.

1. Public Defender - Under this constitutional provision it appears that the public defender would be required to pursue this defense to any and all applicable cases assigned to it. In addition, it is questionable whether the public defender could plead out a case regarding these rights. The Oversight Division did not ask the State Public Defender's Office for a fiscal analysis of SJR 36.

2. Attorney General's Office - The Oversight Division's fiscal note for SJR 36 indicates that the Attorney General's office said that "significant litigation may ensue if this requires the AGO to bring suit, particularly if it is required to represent individual Missourians." The Oversight Division assumes the cost would be $0 to unknown since the extent of litigation is not determined. No additional effort seems to have been made Oversight Division to estimate these costs.

   The language of the constitutional amendment clearly states that the state is obligated to defend the right to bear arms and under no circumstances refuse to do so. This is most likely directly targeted at the Attorney General's office. There are examples throughout the country where a state's Attorney General has refused to defend anti-gay marriage provisions. Missouri's Attorney General has discretion on which laws to defend and at times there have been differences between our Attorney General and members of the Missouri General Assembly regarding the choices made about the state's responsibilities. The new language takes that decision out of the hands of the Attorney General.

   From a budget standpoint, the Attorney General's costs would be reflected in one of two places - the Attorney General's office budget or the state's Legal Expense Fund which is appropriated in the budget of the Office of Administration.

   The Attorney General's budget handles the normal workload associated with the office. In addition, specialized funding has been provided for a Medicaid fraud unit to focus specifically on that priority task.

   The state's Legal Expense Fund is appropriated to the Office of Administration. Historically, it has been used for a variety of purposes including expert witnesses, medical malpractice, legal conflicts, second injury litigation, desegregation litigation, tobacco litigation, and a variety of other uses. For FY 2015 the Missouri General Assembly has approved a budget for the Legal Expense Fund as shown below.

Section 5.125. There is transferred out of the State Treasury, chargeable to the funds shown below, for the payment of claims, premiums, and expenses as provided by Sections 105.711 through 105.726, RSMo., to the State Legal Expense Fund

From General Revenue Fund	$6,000,000E
From Conservation Commission Fund	130,000E
From Office of Administration Revolving Administrative Trust Fund	17,435E
From Park Sales Tax Fund	100,000E
From Soil and Water Sales Tax Fund	10,000E
From State Highways and Transportation Department Fund	500,000E
Total	$6,757,435

Please note that every funding source for the Legal Expense Fund has been given an "E" estimated authority which can be raised to whatever level necessary. Because of the flexibility and unlimited spending authority provided in this appropriation section it is assumed that this section would be the one most likely used to fulfill the requirements of SJR 36. Historically, the Office of Administration Division of General Services pays whatever bills are sent to it by the Attorney General's Office.

Under the provisions of SJR 36 it seems that there would likely be four types of cases affecting the litigation expenses of the Attorney General's Office

- Appellate cases - The Attorney General's office defends the state in federal courts. An example of this in a gun law case occurred recently when the Missouri Attorney General joined 21 other Attorneys General from across the nation to file a friend of the court brief in opposition to a New York law banning certain kinds of semi-automatic weapons. Joining these types of cases would presumably be mandatory for the Attorney General if SJR 36 passed, since decisions in the federal courts anywhere in the country could have an impact on the right to bear arms in Missouri. Such federal court decisions could conflict with new Missouri rights and under the new constitutional provisions of SJR 36 would have to be appealed to the U.S. Supreme Court.

- Federal cases - Changes to laws related to the right to bear arms in Kansas in 2013 resulted in a letter from the U.S. Attorney General to Kansas Governor Sam Brownback regarding the federal government's intention to continue to take all appropriate action, including litigation if necessary to enforce federal laws. The letter was dated just one day after the law went into effect. (See attachment 1) The State of Missouri should expect the same type of quick response to its laws and receipt of federal funds if SJR 36 passes. The fiscal note for the Kansas bill assumed that defending legal challenges to the law would cost $100,000 to $350,000 in FY 2014 and $100,000 in FY 2015, the first two full years of implementation for the act. We should expect no less because SJR 36 is a constitutional amendment rather than a bill and it would enact the most expansive gun laws provision in the country.

- Cases for individual persons - The Attorney General's office said in its legislative fiscal note response that "significant litigation may ensue if this requires the AGO to bring suit, particularly if it is required to represent individual Missourians." The Attorney General's office could be required to defend cases that are substantially different than in the past.

  For cases in which a defendant is indigent the court assigns the case to a State Public Defender. When the defendant is not indigent the defendant must bear the cost of the defense. Under the constitutional language of SJR 36, however, the state would be obligated to defend the new constitutional language and could in no circumstance refuse to do so. Non-indigent defendants may now have a constitutional right to be protected and defended by the state on their right to bear arms claims. In these non-indigent cases the local prosecutor will be working for conviction and the Attorney General's office would be acting in a similar role as the Public Defender does for indigent cases. The Attorney General's office would have to decide whether to create a separate unit within the office to handle the cases, negotiate a rate with one or more law firms or lawyers and pay the expense from the Legal Expense Fund, or allow private lawyers to bill the state for their costs and pay it from the Legal Expense Fund.

  Normally, the Attorney General's office supports the work of the state's prosecutors. However, as the Attorney General's office begins to work to represent individual Missourians legal conflicts may arise. The Office of Administration's Legal Expense Fund is set up to deal with legal conflicts and could be used to do so in these instances.

- Civil cases - These cases would also be likely to occur, including claims by individuals that their rights were violated. One example would be an individual being barred from state owned buildings or leased facilities. These cases could also face local governments and would need to be addressed, likely at the state's cost.

- Review of past convictions - With passage of SJR 36, and the litigation that would occur as a result, case law will establish what is legal and possible in Missouri. A likely result

would be that things that were crimes in the past will no longer be crimes under the new constitution. A similar circumstance has occurred in Colorado, for example, where individuals are currently in prison or under state supervision for crimes related to possession of marijuana which are no longer crimes after Colorado passed marijuana decriminalization. The state should expect that such individuals would appeal for review of their case. This would likely result in costs for both the Attorney General's office and the Department of Corrections to review the case. In addition, the Department of Public Safety Missouri State Highway Patrol will have costs related to changing, expunging, and redacting criminal history records.

SJR 36 would require the defense of gun law claims and would give the Attorney General's office the resources necessary since under no circumstances can he refuse to defend those lawsuits. For a brief period when claims are yet to be filed it is expected that the Attorney General would temporarily shift resources from other functions to prepare for SJR 36 claims. Given the Attorney General's access to a FY 2015 Legal Expense Fund appropriation that is unlimited and a constitutional requirement that obligates him to defend those cases, it is assumed that he would quickly create a new internal unit to fully meet these new responsibilities while not diluting the other functions of the office.

For purposes of this fiscal analysis the table below has been prepared. The Attorney General's Office could request and receive funding for a gun laws litigation unit much like it has for its Medicaid fraud unit. The Medicaid fraud unit is budgeted for 28 FTE and $2.8 million split between general revenue and federal funds. The gun law litigation unit would have to be funded from the state's general revenue fund since SJR 36 does not include provisions to fund the costs it requires from any other funding source. A minimal unit to deal with these cases would be expected to have a senior lawyer in charge with additional lawyers depending upon the extent of litigation. An additional Executive Assistant (clerical) would also be expected.

GUN LAW LITIGATION UNIT FOR ATTORNEY GENERAL'S OFFICE

	FTE	Salary	Cost	
Personal Services	-	-	-	
Assistant Attorney General	3.00	$92,875	$278,625	Salary assumed at average salary of Medicaid fraud unit for the same level of employees plus the half year 1% pay plan approved for FY 2015.
Investigator	1.00	$30,801	$30,801	
Legal Secretary	1.00	$37,839	$37,839	
subtotal personal services	5.00		$347,265	
Expense and Equipment	**Count**	**Rate**	**Cost**	
Travel - in-state			$10,706	One trip per month for 3 people for 2 days - hotel ($105/night), meals ($30/day), mileage ($0.26/mile, 240 mile round trip)
Travel - out-of-state			$4,962	5 trips of 3 days by 2 people - hotel ($125/night), meals ($30/day), mileage ($0.26/mile, 240 mile trip to Lambert Airport)
Supplies	5	$345	$1,725	From FY 2015 OA Budget and Planning budget instructions page 48.
Computer equipment	5	$696	$3,480	
Office equipment	5	$2,384	$11,920	

Professional Services	200	$150	$30,000	Expert witnesses, additional outside legal services. 200 hours times $150/hr rate paid for medical malpractice
Miscellaneous			$2,500	Publications and other expenses
subtotal Expense and Equipment			$65,293	
Fringe benefits		**RATE % OF PERSONAL SERVICES**		All rates per Office of Administration, Division of Budget and Planning
Social Security		7.65%	$26,566	
Retirement - MOSERS		16.97%	$58,931	
Long-term disability - MOSERS		0.50%	$1,736	
Basic Life Insurance (Actives) - MOSERS		0.32%	$1,111	
Basic Life Insurance (Retirees) - MOSERS		0.12%	$399	
Medical Insurance (Actives) - MOSERS		22.70%	$78,829	
Medical Insurance (Retirees) - MOSERS		4.30%	$14,932	
Unemployment Compensation		0.16%	$556	
Workers Compensation		1.58%	$5,487	
Deferred Compensation		1.62%	$5,626	
OPEB		2.21%	$7,675	
subtotal fringe benefits			$201,848	
GRAND TOTAL			$614,406	
Legal Expense rate			$150	Medical Malpractice rate used in Legal Expense Fund expenditures. This is a low rate. Final rate for bear arms cases would be negotiated by the Attorney General's office
Hours equivalent if funded entirely from Legal Defense Fund			4,096	

The Missouri State Highway Patrol website allows a user to query the Uniform Crime Reporting series on criminal arrest statistics (see link below). Using this source the table below has been prepared showing the number of weapons arrests for the last three years where full year data is available - 2011, 2012, and 2013. There have been almost 10,000 arrests on weapons charges over the past three years, an average of 3,327 per year. This is the starting universe for possible assignment to the Public Defender or the Attorney General's office. The UCR statistics only provide a summary and do not contain information to break down the totals into specific types or categories to determine which of these offenses is most likely to be litigated as a result of SJR 36. To further break down the arrests into the various weapons categories would require contacting each individual law enforcement agency according to the CJIS section of the Missouri Highway Patrol.

http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/data_and_statistics_ucr_query_backup.html

UNIFORM CRIME REPORTING
WEAPONS CHARGES

Year	Male	Female	Total
2011	3,198	264	3,462
2012	3,036	325	3,361
2013	2,910	247	3,157
Total last 3 years	9,144	836	9,980
Average for past 3 years	3,048	279	3,327

Additional data has been requested of the Department of Corrections to identify the number of cases coming to their agency for prison, 120 day shock, and probation by the various weapons categories. However, that data is not yet available at the time of the submission of this fiscal analysis.

Department of Corrections and Department of Public Safety

As noted above in the discussion of costs possibly facing the Attorney General's office, the Department of Corrections is likely to be asked to review cases to identify instances where someone was placed under its supervision (prison, 120 day shock, or probation) for things that were crimes in the past that will no longer be crimes under the new constitution. Presumably, a priority would be given to those individuals currently under the supervision of the department. A data request has been submitted to the Department of Corrections to identify the number of cases coming to their agency for prison, 120 day shock, and probation by the various weapons categories. However, that data is not yet available at the time of the submission of this fiscal analysis.

A review of this nature would require at least the following tasks:

- identification using the department's data system of all individuals placed under the supervision of the Department of Corrections. There are over 50 different charge codes for weapons offenses. The analysis should identify those currently under supervision and perhaps be able to identify the weapons offenses most likely needing review
- pulling all files of such individuals by a clerical staff
- review of the files by an investigator or other trained employee
- review of the relevant files by a Probation and Parole officer, a department lawyer, and a lawyer from the Attorney General's office
- submission of the file to the Parole Board, if appropriate, for consideration
- preparing a written report or response as necessary for the Parole Board, circuit court judges, and for the defendant's attorney
- submission of the file and a recommendation to the Governor's office as necessary for possible commutation of the sentence
- submitting all necessary forms with the Judiciary and the Missouri State Highway Patrol to ensure that criminal history records are updated
- updating all criminal records for any changes

In addition, costs in criminal case reimbursements to the counties and the City of St. Louis may increase as the result of passage and implementation of SJR 36. The budget for this reimbursement is included in the budget of the Department of Corrections. This is discussed in more detail in the section on local costs.

In preparing the legislative fiscal note the Oversight Division did not ask the Department of Corrections to review its possible costs. The two issues explained above were therefore not considered.

Office of Administration and other state agencies

The Office of Administration is responsible for providing central management, administration, and policy direction to the state agencies for state buildings and leased properties. According to the Office of Administration there are is 3.7 million sq. ft. of state owned space and 8 million sq. ft. of institutional space. The Office of Administration estimates that there are 3,200 state-owned buildings/sites. In addition, the Office of Administration provides procurement, contract management, and coordination for 520 lease contracts totaling 3.2 million square feet of leased space statewide. The Office of Administration and other agencies may face the following items of additional cost as a result of SJR 36. The Office of Administration was not one of the four agencies asked to review SJR 36. Thus, their possible costs or concerns were not addressed in the legislative fiscal note.

1. Posting of notices - The Office of Administration is responsible for ensuring that appropriate notices are posted in state owned and leased property on whether firearms are allowed to be carried into and possessed in these buildings. If SJR 36 passed and as litigation occurred as a result that further refines the limits, or lack thereof, of the right to possess firearms in buildings the Office of Administration would be required to post the most current directive. In addition, outreach notices, e-mails, newsletters, and other means would be used to inform state employees of the requirements. Failure to do so would result in litigation by someone barred from a building inappropriately or by a state employee for actions taken while uninformed of any new requirements. Such notices would need to be posted at multiple entrances at each site.

   The cost of just one printing and posting of such a notice to be printed for state owned and leased facilities and preparing the outreach documents for the state's approximately 57,000 employees is estimated at $37,200.

OA NOTIFICATION COSTS

Number of state owned sites/buildings	3,200
Number of state lease contracts	520
Total notices	3,720
Cost of printing new rules and also notifying all of approximately 57,000 state employees of the rules	$10
Total cost	$37,200

2. Security - SJR 36 would require that the state "shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement." Defending these rights through litigation has already been examined in this fiscal analysis. However, it is also clear that the Prosecuting Attorneys in Jackson County and St. Louis City (see attachment 2) informed the General Assembly that SJR 36 could ultimately have deadly unintended consequences such as:

   - allowing convicted gang members and drug dealers to carry deadly weapons on our streets
   - allowing domestic violence defendants to continue to possess deadly weapons despite evidence that they pose a threat to the life of their victims

- allowing those that wish to do our children harm the right to carry deadly weapons into our schools

SJR 36 would delete the phrase "but this shall not justify the wearing of concealed weapons" from the current constitutional language. Louisiana deleted similar language about the wearing of concealed weapons. Litigation in Louisiana has already explored whether the deletion of this phrase meant that no regulation of concealed weapons is allowed.

SJR 36 on the other hand would add the language below. One question that would likely be explored is whether by establishing only two instances where the right to bear arms is limited that these are the only two that are allowed at all. If so, some may argue that Missouri could conceivably become a conceal carry state with no permit required.

> "Nothing in this section shall be construed to prevent the general assembly from enacting general laws which limit the rights of convicted violent felons or those adjudicated by a court to be a danger to self or others as result of a mental disorder or mental infirmity."

At least part of the prosecuting attorney's argument is that SJR 36 and the case law it would create may result in fewer legal regulations against the right to bear arms. Any deterrent effect of those laws might be increasingly whittled away. If the general public and local elected officials believe that the effect of the changes related to SJR 36 subject the public to increased jeopardy then additional security staff may be required in a variety of instances. State government officials may want and need more security personnel at:

- State Schools for the Severely Handicapped
- higher education institutions
- courthouses
- state office buildings
- correctional institutions
- mental health facilities
- state leased property housing state workers
- and any other state facility

The Office of Administration reports that there are about 3,200 state sites/buildings and 520 state leases. This number does not include sites for the Missouri Department of Transportation, the Department of Natural Resources, the Department of Conservation, or higher education institutions. The cost to hire additional security officers for half of these facilities would be $114.6 million general revenue.

OA SECURITY COSTS

Number of state owned sites/buildings	3,200
Number of state leases	520
subtotal possible sites for security officer	3,720
Discount % for those buildings with officers already or where the state would decide to do without a security officer	50%
State sites needing security officers	1,860
Salary of Capitol Police Officer (based on mid-point of salary for Capitol Police Officer in Jefferson City)	$38,958
Fringe-benefit costs (58.13%) per officer	$22,646
Cost of officer plus fringe	$61,604
Cost for new security officers	$114,583,971

In addition, the Office of Administration and the Department of Public Safety Capitol Police are responsible for security at the State Capitol. After the attacks of 9/11 in 2001 additional security officers and equipment were installed at the State Capitol. The $1.1 million general revenue cost to the budget at the time are shown in the following table.

CAPITOL BUILDING SECURITY INCREASES AFTER 9/11

FY 2002 supplemental costs	$202,500
FY 2003 costs for Public Safety	$909,894
Total	$1,112,394

Those costs included two additional Capitol Police Officers and funding for equipment. Additional costs for improvements were made by the Office of Administration at the time but the cost for those are not available from current online documents. The cost to reestablish the posts and operations at the State Capitol are estimated at $609,509 general revenue as shown in the following table.

COST TO REESTABLISH SECURITY AT STATE CAPITOL

	FTE	**Salary**	**Cost**	
Personal Services	-	-	-	
Capitol Police Officer	2.00	$38,958	$77,916	Salary assumed at mid-point of range
Expense and Equipment	-	-	-	
One-time equipment and improvements.			$486,304	Based on same cost from FY 2003 with no inflation or changes in requirements or the increased costs of updated technologies. Does not include Office of Administration possible costs for facility improvements.
Fringe benefits		**Rate of % of Personal Service**		
Social Security		7.65%	$5,961	All rates per Office of Administration, Division of Budget and Planning
Retirement - MOSERS		16.97%	$13,222	
Long-term disability - MOSERS		0.50%	$390	
Basic Life Insurance (Actives) - MOSERS		0.32%	$249	
Basic Life Insurance (Retirees) - MOSERS		0.12%	$90	
Medical Insurance (Actives) - MOSERS		22.70%	$17,687	
Medical Insurance (Retirees) - MOSERS		4.30%	$3,350	
Unemployment Compensation		0.16%	$125	
Workers Compensation		1.58%	$1,231	
Deferred Compensation		1.62%	$1,262	
OPEB		2.21%	$1,722	
subtotal fringe benefits			$45,289	
GRAND TOTAL			$609,509	

3. Insurance costs - The state self-insures its state owned facilities. However, for leased facilities the cost of liability and other insurance is embedded in the rate that is charged to the state in the lease agreement. Should landlords become increasingly concerned about the liability costs of housing state employees in their buildings the cost of leasing space would increase. The Office of Administration Division of Facilities Management, Design and Construction is responsible for bidding the state property leases. Leases are not all bid in the same year and the term of the lease can vary by the type of property and the state's anticipated need for that kind of space. Therefore, the full impact of any uncertainty about what can be carried into a leased property would be a concern for the state's landlords. Changes in the state's laws and their interpretation will need to be communicated by the Office of Administration to the landlords. The Office of Administration may need to modify contracts with the landlords depending upon the type of change made in the state's laws and interpretation of those laws. This fiscal analysis does not calculate the cost of notifying the landlords or changing contracts though that is likely to be required. The issue of insurance costs is further explicated in the section on local schools below explaining the difficulty faced by local Kansas schools in obtaining liability insurance at any rate due to changes in that state's gun laws. The table below shows the budget amounts by fund included for leased properties for FY 2015, a total of $108.8 million. It assumes that the price of the state's leases will increase $3.3 million which is three percent as a result of the uncertainty and requirements of SJR 36.

FY 2015 TAFP APPROPRIATION TOTAL FOR HB 2013
FOR LEASED PROPERTIES

Fund	Amount	3% increase due to uncertainty of SJR 36
General Revenue	$76,683,090	$2,300,493
Federal Funds	$18,606,615	$558,198
Other Funds	$13,502,006	$405,060
Total	$108,791,711	$3,263,751

Local Costs

SJR 36 has the possibility of requiring a variety of new costs of county and local governments. It would be wise if all of them kept good financial and other tracking documents to ensure that they are prepared to request reimbursement for any new or increased cost. Missouri's constitutional Hancock Amendment (Article X, Sections 1 to 24) establishes limits on revenue collection and expenses. Article X, Section 21 prohibits the state from reducing the state financed proportion of any existing activity or service. In addition, that section also requires the state to pay for any new service or activity. This analysis only identifies and discusses three such possible costs outlined below.

The legislative fiscal note identifies three sources of information - Attorney General, Secretary of State, Department of Public Safety. When contacted the Oversight Division also indicated that the request was sent to the Highway Patrol as well. The Oversight Division indicated by phone that no other agencies were given the opportunity to review the bill. The Oversight Division did not send the bill out to any local government agency for review even though that is done frequently for legislation considered by the General Assembly. The possible costs and concerns of local governments were therefore not considered in the legislative fiscal note.

1. Jail costs - Counties and the City of St. Louis are reimbursed for certain costs incurred in the prosecution and incarceration of indigent defendants in criminal cases. In addition, counties or county sheriff's offices are paid for costs of transporting prisoners and the costs of serving extradition warrants. Funding for this duty is located in the budget of the Department of Corrections. The state budget passed by the General Assembly for FY 2015 includes $43.3 million to pay these costs compared to the FY 2014 appropriation of $38.1 million. The FY 2014 rate paid is $19.58 per offender per day. The rate had been as high as $22 per day until the appropriation was reduced by $5 million during the recent recession and state budget difficulties. The FY 2015 rate should be closer to $22 assuming that the Governor does not veto or withhold from the appropriation.

   The counties, the City of St. Louis, and the Missouri Association of Counties have complained for many years that the rate paid is substantially less than it costs them to provide these services. This is due to a variety of costs according to the counties including substantial medical costs expended. However, the documentation of the costs associated with these activities were not documented very well at the time the Hancock Amendment passed in 1980. Therefore, it has not been possible for them to demonstrate the increased cost or the increased proportion of those costs under the Hancock Amendment and improve or lock in a reimbursement at a higher level. It would behoove the counties and the City of St. Louis to document their current costs and track all expenditures related to increased jail costs and other activities related to changes related to SJR 36. Under the Hancock Amendment any new activities may be required to be reimbursed at 100% of the cost and any increased cost above the current proportion paid by the state could also be claimed.

   One example of such cost occurred in Louisiana. As noted earlier, Orleans Parish faced the first wave of claims after the passage of its right to bear arms amendment. In the first case that came before the district court the judge ruled that the entire firearms statute challenged was unconstitutional given the new constitutional amendment. Under Louisiana law since the case invalidated the entire law as unconstitutional the case went directly to the Louisiana Supreme Court and bypassed the Appellate Court. Pending the appeal of the first case the district court judge postponed ruling on all of the other similar cases. The result was that some individuals remained in Orleans Parish Prison for months while the appeal was pending. In Missouri such a case would go through the appellate level. However, SJR 36 and its resulting case law and meeting those requirements may be considered a new duty that has been assigned to the counties. Given the frustration of the counties and the City of St. Louis about criminal cost reimbursements over the years at the very least SJR 36 may allow them to begin increasing their reimbursements for well documented new duties.

2. Security - SJR 36 requires that the state "shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement." Defending these rights through litigation has already been examined in this fiscal analysis. However, it is also clear that the Prosecuting Attorneys in Jackson County and St. Louis City (see attachment 2) informed the General Assembly that SJR 36 may ultimately have deadly unintended consequences such as:

   - allowing convicted gang members and drug dealers to carry deadly weapons on our streets
   - allowing domestic violence defendants to continue to possess deadly weapons despite evidence that they pose a threat to the life of their victims
   - allowing those that wish to do our children harm the right to carry deadly weapons into our schools

   SJR 36 deletes the phrase "but this shall not justify the wearing of concealed weapons" from the current constitutional language. Louisiana deleted similar language about the wearing of concealed weapons. Litigation in Louisiana has already explored whether the deletion of this phrase meant that no regulation of concealed weapons is allowed.

SJR 36 on the other hand adds the language below. One question that will likely be explored is whether by establishing only two instances where the right to bear arms is limited that these are the only two that are allowed at all. If so, some may argue that Missouri could conceivably become a conceal carry state with no permit required.

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At least part of the prosecuting attorney's argument is that SJR 36 and the case law it creates may result in fewer legal regulations against the right to bear arms. Any deterrent effect of those laws may be increasingly whittled away. If the general public and local elected officials believe that the effect of the changes related to SJR 36 subject the public to increased jeopardy then additional security staff may be required in a variety of instances. Local officials may want and need more security personnel at:

- at K-12 schools
- higher education institutions
- courthouses
- public libraries
- transit facilities
- on buses or light rail similar to air marshals now on the nation's planes
- health clinics
- polling stations during elections
- and any other public facility

If the local entities properly document their costs before enactment of SJR 36 and show that the increased costs are related to changes that were necessary or prudent in amount or proportion then they may have a right to a Hancock Amendment reimbursement. In addition, any costs related to posting the firearms security requirements of these facilities is a new duty and may be a reimbursable cost.

3. Elementary and Secondary Education - K-12 security and insurance

Public schools are a particular concern for communities. The shootings at Newtown and Columbine among others have led to a widespread debate about how, or whether, public schools should have additional protection. In the State of Kansas in response to a new law the publication Business Insurance reported that the largest insurer of Kansas public school districts, Des Moines, Iowa-based EMC Insurance Cos. said it would not insure districts that allow employees to carry guns on school property (web link below). The company justified this decision based on the increased liability risk it saw being created. Missouri school districts would face the same risk. School districts need liability insurance. Should Missouri school districts find an insurance company willing to offer such insurance the additional cost may be reimbursable by the state.

http://www.businessinsurance.com/article/20130728/NEWS06/307289980

Given that it is possible the districts could find it difficult to find such insurance it is more likely that the solution to greater protection would be the hiring of school resource officers - an officer from the local police or sheriff's department assigned to each school. According to the Missouri Department of Elementary and Secondary Education there are 2,362 public schools in the state. The Department of Elementary and Secondary Education did not have information readily available on the number of school resource officers currently in the

schools. The following table assumes that half of these buildings either have school resource officers or the school district will decide not to hire such an officer to place in their schools. The cost to hire a school resource officer for half the schools would be $53.8 million and may be a reimbursable cost of the constitutional amendment.

SCHOOL RESOURCE OFFICERS

# of schools statewide according to the Department of Elementary and Secondary Education	2,362
Discount % for those buildings with officers already or where district would decide to do without a school resource officer	50%
School buildings needing resource officers	1,181
Salary of School Resource officer (based on mid-point of salary for Police Officer II in Jefferson City but no fringe benefits)	$45,528
Cost for new school resource officers	$53,768,568

Loss of Federal Funds when state law, policies, or actions conflict with federal law

The state of Missouri receives a large amount of federal funds for law enforcement for various federal programs through the Missouri Department of Public Safety. In addition, the Missouri Department of Conservation receives federal funds for its activities through a fund share program which allows it to receive a portion of federal funds collected as a result of taxes and fees on sporting, hunting, and other activities. The Department of Conservation gets federal funds based on its proportion of state license fees compared to the other states. The Missouri Department of Conservation reported that it collected about $25 million (see table below) as a result of a federal revenue sharing program related to the licenses it sells. The federal money is deposited into its dedicated fund. In preparing the legislative fiscal note the Oversight Division did not ask the Department of Conservation to review its possible costs or concerns. Thus, their issues were not considered.

FY13 Apportionment

Missouri Wildlife Restoration (Pittman-Robertson Act) - total includes Hunter Education funding shown separately below	$14,113,497
Missouri Sport Fish Restoration (Dingell-Johnson Act)	$8,306,550
Missouri Basic Hunter Education (Section 4)	$2,799,343
Missouri Enhanced Hunter Education (Section 10)	$219,081
Total	$25,438,471

A requirement of all federal funds is that the state be in compliance with federal law. In some cases, such as when the federal government wanted to force states to move to the .08 level of intoxication for DWI cases, the federal government explicitly identifies actions it needs if funding is to continue. Each federal funds program contains some certification or acknowledgement that the federal requirements have been met, the funds and program has been audited, and usually a report on changes that should be noted.

SJR 36 and the case law it creates may result in instances where Missouri case law on the right to bear arms is in conflict with the federal program requirements. These instances are most likely to impact federal funding programs coming into the Department of Public Safety and the Department of Conservation. Some federal funding also goes directly to local governments and may also be at risk.

Changes to laws related to the right to bear arms in Kansas in 2013 resulted in a letter from the U.S. Attorney General to Kansas Governor Sam Brownback regarding the federal government's intention to continue to take all appropriate action, including litigation if necessary to enforce federal laws. The letter was dated just one day after the law went into effect. (See attachment 1) The State of Missouri should expect the same type of quick response to its laws and receipt of federal funds.

In addition, state policies or actions resulting from SJR 36 and its implementation may also conflict with federal laws or policies. SJR states that "under no circumstances decline to protect against their infringement." Earlier in this fiscal analysis the cost of complying with this requirement for the state of Missouri was discussed. But this is also an actionable item for the Missouri Highway Patrol, the Department of Conservation agents, the Department of Natural Resources park rangers, and other law enforcement entities. To comply with the Missouri Constitution these organizations and entities may have to refuse to participate in some activities that they have historically conducted. This may include joint activities with the federal government, activities that the federal government has devolved down to the state, or that are the state's responsibility but are relied upon by the federal government. Failure to participate in these activities may result in specific federal funds or categories of funds being lost.

Tourism

As discussed elsewhere in this fiscal analysis, SJR 36 would likely go further than any constitutional gun law provision in the nation . Substantial litigation over the next several years would determine the impact. The prosecutors from Jackson County and St. Louis City (attachment 2) indicate that serious public safety concerns would arise.

As multi-victim shootings occur regularly throughout the country a number of national businesses have either instituted or are considering policies regarding possession of weapons in their business establishments - Starbucks, Chipotle, Chili's, Wendy's, Jack in the Box, Applebee's, and others. The concern of these businesses is that the appearance of firearms in a business place creates an atmosphere that is intimidating or uncomfortable. At some point these and other businesses may become concerned about expanding or doing business in Missouri. In addition, tourism boycotts or travel advisories may be recommended by interest groups or other nations.

In addition, safety concerns are also considered by travelers. The Missouri Division of Tourism publishes an Annual Report each year showing that tourism is an integral part of the Missouri economy. For FY 2013 the Division of Tourism reported that tourism generated an estimated direct and indirect economic impacts totaling $14.6 billion and about 285,000 jobs. The division estimated that in FY 2013 tourism generated $1.2 billion in local and state tax revenues and a total of $2.1 billion including federal tax revenues.

The following table shows the expenditures in 17 tourism-related SIC codes in the state for FY 2013. Four counties generated more than half of all such expenditures (51.1%) in FY 2013.

	Expenditures in 17 Tourism-Related SIC Codes				
	FY 2010	FY 2011	FY 2012	FY 2013	Average annual growth FY 2010-FY2013
St. Louis City	$1,084,887,029	$1,098,338,427	$1,282,816,202	$1,251,165,243	
St. Louis County	$2,060,297,259	$2,115,616,143	$2,223,501,856	$2,286,445,977	
Jackson County	$1,464,685,298	$1,535,192,221	$1,646,958,776	$1,676,347,223	
Taney County	$422,473,155	$435,603,464	$436,294,268	$438,424,888	
subtotal major counties	$5,032,342,741	$5,184,750,255	$5,589,571,102	$5,652,383,331	3.95%
Remainder of State	$4,918,146,034	$5,066,814,939	$5,333,175,594	$5,410,484,400	3.23%
GRAND TOTAL	$9,950,488,775	$10,251,565,194	$10,922,746,696	$11,062,867,731	3.60%

In addition, in times of controversy groups sometimes recommend boycotts of economic activity. Early this year the state of Arizona faced rising boycott pressure from groups due to the passage of an anti-gay rights measure passed by its legislature. Businesses both inside and outside the state indicated that they would be severely impacted by the loss of economic activity as a result of the boycotts and anticipated substantial loss of tourism revenues. The Arizona Governor vetoed the bill in February 2014 and indicated that this loss of economic activity was a major reason for the veto.

Major groups also have formed in the United States that are concerned with the growing divergence and hardening of opinions related to guns. One strategy that may be raised is the possibility of recommended boycotts and travel advisories for the state of Missouri. Such an effort would not have to dramatically reduce tourism to have a major effect on spending and therefore revenue collections. The table below assumes the average annual growth since FY 2014 in tourism related SIC codes to project expenditure levels through FY 2017. Should boycotts and travel advisories simply cut the rate of growth by just one percent the level of expenditures would be $478 million lower in FY 2015 and $658 million lower in FY 2017. Using the Missouri Department of Tourism's estimate that tourism spending provided $1.2 billion in state and local tax collections a reduction of $658 million in the growth of tourism revenues would lead to about $71 million in revenue growth for state and local governments that would not occur.

In preparing the legislative fiscal note the Oversight Division did not ask the Department of Economic Development, Division of Tourism to review its possible costs. Nor did the Oversight Division send a fiscal note review request for SJR 36 to any of the convention and tourism bureaus in the state. Thus, their issues were not considered in the legislative fiscal note.

Expenditures in 17 Tourism-Related SIC Codes			
	Estimated expenditures if future years based on Average Annual growth from FY 2010 to FY 2013		
FY 2014	$5,875,597,967	$5,624,146,361	$11,499,744,328
FY 2015	$6,107,627,429	$5,846,245,909	$11,953,873,338
FY 2016	$6,348,819,817	$6,077,116,248	$12,425,936,065
FY 2017	$6,599,536,979	$6,317,103,738	$12,916,640,717
	Estimated expenditures if future years based on Average Annual growth cut by one percent due to boycotts or reduced tourism		
FY 2014	$5,819,074,134	$5,531,210,852	$11,350,284,986
FY 2015	$5,990,680,708	$5,654,631,125	$11,645,311,833
FY 2016	$6,167,348,021	$5,780,805,327	$11,948,153,348
FY 2017	$6,349,225,317	$5,909,794,908	$12,259,020,225
	Difference in estimated expenditures if future years based on Average Annual growth cut by 1% due to boycotts or reduced tourism		
FY 2014	($56,523,833)	($92,935,509)	($149,459,342)
FY 2015	($116,946,721)	($191,614,784)	($308,561,505)
FY 2016	($181,471,796)	($296,310,921)	($477,782,716)
FY 2017	($250,311,662)	($407,308,830)	($657,620,492)

Oversight Division's fiscal note

The fiscal note available for SJR 36 was published by the General Assembly on May 27, 2014 for the Truly Agreed and Finally Passed version of Senate Committee Substitute (SCS). The legislative fiscal note identifies three sources of information. When contacted the Oversight Division also indicated that the request was sent to the Highway Patrol as well. The Oversight Division indicated by phone that no other agencies were given the opportunity to review the bill. The Oversight Division did not ask any local government to review SJR 36 even though that is done frequently for bills being considered by the General Assembly. Nor were higher education institutions asked to review SJR 36 according to the Oversight Division.

In the published fiscal note the Office of the Secretary of State does not anticipate a cost unless there is a special election called which would require them to reimburse local election officials for the cost of the election. Given that the Governor has placed the measure on the August primary ballot therefore any cost to the Secretary of State's office has been eliminated. The Department of Public Safety responded that they did not anticipate a cost. The Attorney General's Office, according to the Oversight Division, indicated that "the proposal states that the state is 'obligated to uphold' and cannot 'decline to protect' certain rights. Significant litigation may ensue if this requires the AGO to bring suit, particularly if it is required to represent individual Missourians." The published fiscal note indicates that based on these three responses the Oversight Division had a cost of $0 or unknown.

Summary of costs and lost revenues

The following table has been prepared to summarize the costs identified in this fiscal analysis. The following estimates in the bullets below show state and local costs for FY 2016 of $243.9 million to unknown.

General revenue costs associated with state agencies is estimated to be $204.7 million to unknown including:

- $118.1 million in direct agency costs
- $53.8 million in costs reimbursable to local governments as the result of increased activities or the change in proportion in the activities or services required
- $32.8 million in lost revenue

Federal fund costs directly associated with state agencies is estimated to be $558,198 to unknown.

Other state fund costs are estimated to be $13.8 million to unknown including:

- $405,060 directly associated with state agencies
- $13.4 million in lost revenue

Local costs are estimated to be $24.9 million to unknown through the loss of revenue to local governments

SUMMARY OF COSTS TO STATE AND LOCAL GOVERNMENTS
SJR 36 - RIGHT TO BEAR ARMS

Agency/item	FY 2015	FY 2016	Comments
GENERAL REVENUE COSTS			
State government costs			
Attorney General	($512,005)	($614,406)	Litigation costs estimated for 10 months in operation in FY 2015 based upon August 2014 vote.
Missouri Public Defender costs	unknown	unknown	
Department of Corrections	unknown	unknown	
Missouri State Highway Patrol	unknown	unknown	
Office of Administration - printing notices and notifications	($37,200)	($37,200)	Assume one printing each year as interpretation of SJR 36 is updated through court decisions
Office of Administration security costs		($114,583,971)	For state-owned buildings/sites and leases
Office of Administration - State Capitol building costs		($609,509)	
Office of Administration - leasing costs	unknown	($2,300,493)	
subtotal General Revenue costs	($549,205)	($118,145,579)	
FEDERAL FUND COSTS			
Office of Administration - leasing costs		($558,198)	
Loss of federal funds due to conflicts with federal laws or program rules/regulations	unknown	unknown	For Department of Public Safety and the Department of Conservation
subtotal Federal Fund costs		($558,198)	
OTHER STATE FUND COSTS			
Office of Administration - leasing costs		($405,060)	
subtotal Other State Fund costs		($405,060)	

Local government costs			
Costs in criminal cases	unknown	unknown	All may be reimbursable by the state as a new activity or change in the proportion of activities that are required per Article X, Section 21.
Security at public facilities and services	unknown	unknown	All may be reimbursable by the state as a new activity or change in the proportion of activities that are required per Article X, Section 21.
K-12 school security		($53,768,568)	Cost assumed in FY 2016 due to time needed to obtain agreements with local law enforcement to supply school resource officers. All may be reimbursable by the state as a new activity or change in the proportion of activities that are required per Article X, Section 21.
subtotal local government costs		($53,768,568)	
Revenue losses to state and local government			
Tourism-related revenue losses			Tourism-related revenues slowing in growth due to boycotts and travel advisories
State - GR	($11,953,846)	($32,769,231)	Assume breakout by sales tax of 6.5% statewide (3% GR, 1.225% Other State funds, 2.5% local)
State - Other funds	($4,881,154)	($13,380,769)	
Local	($9,065,000)	($24,850,000)	
subtotal revenue losses	($25,900,000)	($71,000,000)	Assumed six month of loss in FY 2015 since vote takes place in August 2014 near the end of the tourism season.
GRAND TOTAL	($26,449,205)	($243,877,405)	

Conclusion

The Oversight Division of the General Assembly prepared and the General Assembly approved a fiscal note for SJR 36 that was woefully inadequate. The fiscal note only includes the response of four agencies. There is no evidence that any local government was contacted. There is no evidence that other states were contacted despite the fact that Louisiana passed a very similar constitutional amendment in 2012.

The fiscal analysis submitted in this document has provided information, references, and documentation about the impact of Louisiana's gun law amendment in the first 18 months after its approval by the voters. The fiscal analysis has identified substantial litigation costs and requirements faced by the state through its agencies. In addition, the fiscal analysis has identified possible processing costs that would be faced the Department of Corrections and the Department of Public Safety as a result of SJR 36's passage and the ensuing case law that will result from its implementation. The Office of Administration would face costs related to the notices required in state buildings and notifying approximately 57,000 state employees. The Office of Administration would also have to address security issues in state-owned and leased facilities. In addition, the Office of Administration also could face increased costs for leasing space for state government.

The Oversight Division's fiscal note had no cost recognized or considered for local governments. In fact the Oversight Division indicated that no local government was sent a request to review SJR 36 though that occurs frequently for bills being considered by the General Assembly. However, SJR 36 would likely result in new duties in several instances that are reimbursable by the state in accordance with Article X of the Missouri Constitution. These costs include such things as increasing costs in county jails and the security of a wide range of local public buildings and services. K-12 schools also can face building security costs and insurance liability issues as a result of the act.

This fiscal analysis also provides information about the possible loss of federal funds as a result of the implementation and case law following approval of SJR 36 which would likely result in state laws, regulations, or practices that are in conflict with federal law. The Oversight Division did not explore this concern at all in its fiscal note.

In addition, there is the possibility of the loss of revenue to both the state and local governments should SJR 36 be passed. Tourist boycotts and travel advisories by interested groups or other nations could slow tourism spending and would result in slower growth in revenue than would be the case if SJR 36 does not pass.

Certainly the State Auditor's Office needs to reach out to more agencies and local governments than was done by the Oversight Division. A $0 fiscal note is unconscionable.

ATTACHMENTS

1. Letter from U.S. Attorney General to Kansas Governor Sam Brownback dated April 26, 2013

2. Letter from Jackson County Prosecuting Attorney and St. Louis City Circuit Attorney dated April 30, 2014 to Missouri House of Representatives Speaker Timothy Jones

ATTACHMENT 1

Office of the Attorney General
Washington, D.C. 20530

April 26, 2013

Governor Sam Brownback
Capitol, 300 SW 10th Avenue
Suite 241S
Topeka, KS 66612-1590

Dear Governor Brownback:

I am writing in connection with Senate Bill Number 102 ("S.B. 102"), which, as you know, was recently enacted by the State of Kansas and which became effective on April 25, 2013.

Among its other provisions, S.B. 102 criminalizes the enforcement of federal law with respect to the types of firearms, firearm accessories, and ammunition described in the statute. The law purports to nullify certain federal firearms requirements and to authorize the State of Kansas to charge and convict federal officers for performing their law enforcement duties.

In purporting to override federal law and to criminalize the official acts of federal officers, S.B. 102 directly conflicts with federal law and is therefore unconstitutional. Federal officers who are responsible for enforcing federal laws and regulations in order to maintain public safety cannot be forced to choose between the risk of a criminal prosecution by a state and the continued performance of their federal duties. Under the Supremacy Clause of the United States Constitution, Kansas may not prevent federal employees and officials from carrying out their official responsibilities. And a state certainly may not criminalize the exercise of federal responsibilities. Because S.B. 102 conflicts with federal firearms laws and regulations, federal law supersedes this new statute; all provisions of federal laws and their implementing regulations therefore continue to apply.

I am writing to inform you that federal law enforcement agencies, including the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the United States Attorney's Office for the District of Kansas, will continue to execute their duties to enforce all federal firearms laws and regulations. Moreover, the United States will take all appropriate action, including litigation if necessary, to prevent the State of Kansas from interfering with the activities of federal officials enforcing federal law.

Please contact me if you wish to discuss this matter further.

Sincerely,

Eric H. Holder, Jr.
Attorney General

ATTACHMENT 2

April 30, 2014

The Honorable Timothy Jones
Missouri House of Representatives
201 West Capitol Avenue, Room 308
Jefferson City, Missouri 65101

Dear Representative Jones:

The Missouri General Assembly is on the verge of passing a Resolution that will place the safety and security of the citizens of Missouri in jeopardy. At first glance Senate Joint Resolution 36 appears to be an innocuously worded Resolution. However, we believe that it may ultimately have deadly unintended consequences. They include:

1. Allowing convicted gang members and drug dealers to carry deadly weapons on our streets
2. Allowing domestic violence defendants to continue to possess deadly weapons despite evidence that they pose a threat to the life of their victims
3. Allowing those that wish to do our children harm the right to carry deadly weapons into our schools

No one can ensure the citizens of Missouri that these changes to our Constitution will not create these unintended consequences. Ultimately, Judges of this state will interpret these new words added to the Constitution and they will have to determine the impact and meaning of this resolution.

The Constitution and laws of our State already protect the hunter, the lawful citizen, and those acting in self-defense. This Resolution provides them no new protection. Unfortunately the only ones that stand to benefit from this new language are gang members, drug dealers, domestic abusers, and other criminals.

On behalf of the citizens of our communities, please stand on the side of public safety and common-sense and refuse to engage in this potentially deadly political theatre. Please vote No on Senate Joint Resolution 36.

Respectfully,

Jean Peters Baker
Jean Peters Baker
Prosecuting Attorney
Jackson County

Jennifer M. Joyce
Circuit Attorney
City of St. Louis

cc: The Honorable Kurt Schaefer

Blake M. Lawrence provided the following information as an opponent of this resolution.

Fiscal Impact Information Submitted Pursuant to Section 23.140.2

The cost of the proposed amendment to the state for the next two fiscal years is substantial.

ESTIMATED NET EFFECT ON STATE FUNDS		
Fund Affected	**FY 2015**	**FY 2016**
General Revenue	Unknown	unknown
Total Estimated Net Effect on All State Funds	**unknown**	**unknown**
ESTIMATED NET EFFECT ON LOCAL FUNDS		
Local Funds	unknown	unknown
Total Estimated Net Effect on All Local Funds	**unknown**	**unknown**

Fiscal Summary Recommendation

Based on the analysis of the measure provided in this fiscal impact statement the cost in FY 2016 to general revenue is substantial to unknown for litigation costs for the Attorney General, the Public Defender, the courts, the Department of Public Safety, and the Department of Corrections.

"The cost to state or local government is between unknown depending upon substantial expected litigation related to the amendment."

Proposed Statement of Fiscal Impact submitted to the Missouri State Auditor's Office for SJR 36 passed by the General Assembly

Introduction

The analysis below provides information relevant to the fiscal costs associated with SJR 36 passed by the Missouri General Assembly that will be voted on by Missouri voters in August 2014. The analysis includes information on the arrests and sentences for weapons offenses that will be affected by litigation following passage of SJR 36 by voters. In addition, a fiscal note from the State of New Mexico is included for a bill considered in 2013 that illuminates the problems that would be faced by the Attorney General's office and the Public Defender's Office in New Mexico should expansive gun laws be passed. These same issues will manifest themselves to an even greater degree in Missouri upon passage of SJR 36 because it is a constitutional amendment rather than a bill and the language obligates the state to defend these rights in all circumstances.

Scope of problem

SJR 36 includes the following language.

> "the state of Missouri shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement."

The language of the constitutional amendment clearly states that the state is obligated to defend the right to bear arms and under no circumstances refuse to do so. The litigation costs of the state would be borne by the Missouri State Public Defender office and the Attorney General's office. These costs would likely be highest during the first three to five years of the act as the state's laws and regulations are tested in the courts. The litigation costs include state criminal cases, appeals within the state courts, appeals in federal courts, federal cases involving gun laws in other states, and civil cases.

A similar constitutional amendment passed in Louisiana in 2012 resulted in a surge of cases being litigated in the courts as lawyers, defendants, and prosecutors worked through cases to clarify the significance and impact of the new constitutional provisions. Information on the types of cases that have arisen, or are expected in the future, is included in the following two links.

http://lawreview.law.lsu.edu/2014/04/04/up-in-smoke-an-update-on-louisianas-right-to-bear-arms/

http://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=6438&context=lalrev

With regard to Missouri criminal cases, the Uniform Crime Statistics are available by using the website of the Missouri State Highway Patrol at the following link.

http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/data_and_statistics_ucr_query_backup.html

For the last three years where full year data is available - 2011, 2012, and 2013 - there have been almost 10,000 arrests on weapons charges - about 3,300 per year. These are the criminal cases that can be assigned to the Public Defender or the Attorney General's office. The UCR statistics only provide a summary and do not contain information to break down the totals into specific types or categories to determine which of these offenses is most likely to be litigated as a result of SJR 36. To further break down the arrests into the various weapons categories would require contacting each individual law enforcement agency according to the CJIS section of the Missouri Highway Patrol.

UNIFORM CRIME REPORTING
WEAPONS CHARGES

Year	Male	Female	Total
2011	3,198	264	3,462
2012	3,036	325	3,361
2013	2,910	247	3,157
Total last 3 years	9,144	836	9,980
Average for past 3 years	3,048	279	3,327

However, some information is available on the number of people with weapons offenses that have been sentenced and assigned to the Department of Corrections. The Missouri Sentencing Advisory Commission provides a variety of reports and other materials on its website. Included in the Commission's reports is the Missouri Sentencing Advisory Commission - User Guide 2012-2013 published in April 2013 that can be found at the following link.

http://www.mosac.mo.gov/file.jsp?id=45394

Pages 85-87 of the guide provide information on the weapons offenses sentenced from 2007 to 2012. That information is reproduced, in part, below. During that six year period a total of 7,920 weapons offenses were sentenced, or about 1,320 per year. The 32 separate charge codes for the weapons offenses are provided as is the state statutory reference. The table below shows the percentage of sentences of probation, shock, and prison.

	WEAPONS OFFENSES SENTENCED 2007 - 2012					
				Sentence disposition		
Charge code	Offense description	RSMo. Charge code statute	Count	% probation	% shk/trk	% prison
31010	Armed criminal action	571.015	136	7%	1%	92%
31015	Unlawful use of weapon motivated by discrimination	557.035	36	92%	0%	8%
31016	Leaving the scene of a shooting - prior offender	577.068	3	100%	0%	0%
31020	Unlawful use of weapon (subsec 1-4)	571.030	6,182	82%	5%	13%
31040	Unlawful transfer of weapon to felon, fugitive, addict or incompetent person	571.060	32	88%	6%	6%
31057	Fraudulent purchase of a firearm	571.063	0	0	0%	0%
31065	Unlawful possession of a firearm	571.070	525	47%	10%	44%
31070	Unlawful possession of a concealable firearm	571.070	62	58%	6%	35%
31075	Knowingly possess explosive, incendiary or poisonous substance/material with purpose to possess, manufacture or sell an explosive weapon	571.020	17	82%	12%	6%
31080	Unlawful possession, transport, manufacture, repair or sale of illegal weapons	571.020	213	76%	7%	17%

31127	Carry loaded firearm/weapon into any school, onto school bus, onto premise of school sanctioned activity	571.030	35	100%	0%	0%
31135	Unlawful possession of an explosive weapon	571.072	0	0%	0%	0%
31140	Placing bomb or explosive at or near bus or terminal	578.310	0	0	0%	0
31145	Discharge a firearm or weapon at railroad train or rail-mounted equipment	389.653	0	0%	0%	0%
31147	Discharge/shoot firearm at or from motor vehicle at person, motor vehicle, or building/habitable structure - persistent offender	571.030	13	62%	31%	8%
31149	Discharge/shoot firearm at or from motor vehicle at person, motor vehicle, or building/habitable structure - prior offender	571.030	6	50%	33%	17%
31150	Discharging firearm, hurling missile at, into, or upon bus	578.310	1	100%	0%	0%
31151	Discharge/shoot firearm at or from motor vehicle , shoot at person, another motor vehicle, or bldg/habitable structure - physical injury/death	571.030	12	42%	0%	58%
31152	Discharge/shoot firearm at or from motor vehicle , shoot at person, another motor vehicle, or bldg/habitable structure - 1st offense	571.030	104	61%	13%	27%
31153	Aiding or abetting a person discharging or shooting a firearm at/from a motor vehicle - physical injury or death	571.030	1	0%	0%	100%
31154	Aiding or abetting a person discharging or shooting a firearm at/from a motor vehicle - 1st offense	571.030	5	0%	20%	80%
31155	Aiding or abetting a person discharging or shooting a firearm at/from a motor vehicle - persistent offender	571.030	0	0%	0%	0%
31156	Aiding or abetting a person discharging or shooting a firearm at/from a motor vehicle - prior offender	571.030	0	0%	0%	0%
31160	Threatening to place bomb or explosive at or near bus or terminal	578.310	1	0%	100%	0%
31162	Possession/discharge loaded firearm/projectile weapon while intoxicated	571.030	380	89%	4%	7%
31163	Unlawful use of loaded firearm/projectile weapon by intoxicated person (subsection 5)	571.030	33	91%	3%	6%
31168	Possession and concealment of a dangerous or deadly weapon a bus	578.305	0	0%	0%	0%
31170	Possession of weapon, explosive or hazardous material on a bus or in terminal	578.320	1	0%	0%	100%

31180	Delivery or possession of weapon at a correctional facility	217.360	17	0%	0%	100%
31182	Deliver/attempt to deliver/poss/deposit/conceal gun/knife/weapon/other at correctional facility, city/co jail or private prison/jail	217.360	74	12%	3%	85%
31195	Delivery or possession of weapon at county/private jail	221.111	30	37%	10%	53%
31200	Possession or use of metal penetrating bullet during commission of crime	571.150	1	100%	0%	0%
	Total count		7,920			

As noted in the Louisiana law review articles provided above, the impact of its constitutional changes are still being worked out in the courts. The number of cases that must be defended by the Missouri Attorney General and the Public Defender are likely a subset of the weapons offenses numbers shown above. The charge codes 31020, 31040, 31057, 31065, 31070, 31080, and 31127 deal with possession, purchase, or use of a weapon. Those codes include over 7,000 sentences to the Department of Corrections. The code 31020 includes four subsections and is the biggest sentence code that would need to be further delineated and investigated as to whether SJR 36 will affect these prosecutions.

The Oversight Division of the General Assembly sent SJR 36 to the Attorney General's office for review. The legislative fiscal note response indicates that the Attorney General explained that "significant litigation may ensue if this requires the AGO to bring suit, particularly if it is required to represent individual Missourians."

For criminal cases the Attorney General's office could be required to defend cases that are substantially different than in the past. The Attorney General should expect, and likely does expect given the legislative fiscal note response, to defend individual cases. Those cases would include non-indigent defendants with a constitutional right to be defended by the state for lawsuits related to the right to bear arms. No guidance is provided in SJR 36 other than that the state is obligated to defend such cases and cannot refuse.

The Attorney General's office will need to defend these lawsuits with a unit within his office or through expenditures from the Legal Defense Fund in the budget of the Office of Administration.

New Mexico fiscal note

The New Mexico legislature considered HB 114 in its 2013 session. The gun nullification bill can be found at the following link.

http://www.nmlegis.gov/Sessions/13%20Regular/bills/house/HB0114.pdf

In the first section of the gun nullification bill the following language was included:

> "The Attorney General may defend a resident of New Mexico who is prosecuted by the United States government for violation of a federal law relating to the manufacture, sale, transfer or possession of a firearm or firearm accessory or of ammunition owned or manufactured and retained exclusively within the borders of New Mexico."

The legislative fiscal note identifies a variety of issues and problems that will be faced by the Attorney General's office, the district attorneys, and the public defenders in the following link.

http://www.nmlegis.gov/sessions/13%20Regular/firs/HB0114.PDF

Attorney General's response and issues reported in fiscal note:

- bill could result in an increase in criminal matters filed in courts of jurisdiction. Also possible under SJR 36.
- could result in additional investigative tasks to be conducted by state and local law enforcement personnel. Also possible under SJR 36.
- identifies State of Montana law being litigated in federal courts as example of costs. Federal litigation is also possible under SJR 36.
- there is no standard stated on which cases to defend and no information on such fundamental matters on whether the Attorney General should be paid for handling the defense or cover the costs related to the defense. This is important to the determination of costs for SJR 36 because it simply says that under no circumstances may the state refuse to defend these rights. But with over 3,300 arrests for weapons offenses each year the Attorney General's office or someone is going to have to decide which of the arrests fit within the definition requiring a defense and who is going to provide the defense. This may take many court cases to determine.
- the Attorney General could be position to be on both sides of a case. Also, possible under SJR 36.

Administrative office of District Attorney's response:

- virtually certain to invite litigation from the federal government and other interested parties. Also possible under SJR 36.
- would result in expenses for the Attorney General if he takes on the defense of a person. Also possible under SJR 36.
- there are new categories of crimes that could increase the caseloads of the district attorneys. Additional cases also possible under SJR 36.

Courts response:

- impact will be proportional to the increased enforcement cases under the law, commenced cases, and any constitutionally-based challenges. Also possible under SJR 36.
- there will be a cost to document, update, and distribute information about changes. Also possible under SJR 36.

Public Defender's response:

- any increase in the number of prosecutions will bring a concomitant need for an increase in indigent funding. Also possible under SJR 36 because under no circumstances can the state refuse to provide a defense.

Public Safety response:

- its law enforcement program has a number of agreements with various federal law enforcement agencies that could be affected. Also possible under SJR 36.

Many of these responses also discuss the federal preemption issue and possible federal lawsuits that will result. Also possible under SJR 36.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Kirkwood,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College,** and **St. Louis Community College**.

Fiscal Note Summary

State and local governmental entities should have no direct costs or savings from this proposal. However, the proposal's passage will likely lead to increased litigation and criminal justice related costs. The total potential costs are unknown, but could be significant.

14-02

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 9, 2012

RECEIVED
NOV 0 9 2012
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Ron Calzone regarding a proposed constitutional amendment related to Article I, version 1, blue paper (2014-002)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Ron Calzone on November 8, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-02

County _____
(County signers are registered to vote in.)

Page

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: **I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

CIRCULATOR'S AFFIDAVIT

(Ballot title goes here.)

RECEIVED
2012 NOV -8 PM 10:18
SEC. OF STATE

STATE OF MISSOURI, COUNTY OF _____
(County in which notary witnessed ciculator's signature.)

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR DIST.	NAME (Printed or Typed)
1.	/ 20__				1.
2.	/ 20__				2.
3.	/ 20__				3.
4.	/ 20__				4.
5.	/ 20__				5.
6.	/ 20__				6.
7.	/ 20__				7.
8.	/ 20__				8.
9.	/ 20__				9.
10.	/ 20__				10.

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.
(County signers are registered to vote in.)

Signature of Affiant: _____
(Person obtaining signatures)

(Address of Affiant)

Subscribed and sworn to before me this

_____ day of _____, A.D._____

Signature of Notary: _____

(Address of Notary)

Notary Public (Seal)
My commission expires _____

14-02

NOTICE: You are advised that the proposed constitutional amendment may be construed to change, repeal, or modify by implication Article VI, Section 21 of the Missouri Constitution.

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Sections 26, 27 and 28 of Article I of the Constitution of Missouri are amended by modifying sections 26, 27 and 28. The existing sections 26, 27 and 28 are set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

Article I - Bill of Rights

In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:

Section 26. [That private property shall not be taken or damaged for public use without just compensation.] **That the power of eminent domain shall be vested in no other than the state, including state entities expressly granted such power by this constitution, or in political subdivisions of the state whose officials are directly accountable to elected officials. That private property shall not be taken or damaged unless such taking is necessary for a public use and just compensation is rendered.** Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be provided by law[;] **. The value of the property may be determined by, but is not limited to, appraisal methods typical to the ordinary course of business, and any evidence which would be considered by an appraiser in the ordinary course of business shall be relevant and admissible.** [and until the same] **Until a final legal determination of the legitimacy of the taking is established and until compensation** shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad purposes without consent of the owner thereof shall remain in such owner subject to the use for which it is taken.

Section 27. That in such manner and under such limitations as may be provided by law, the state, or any county or city may acquire by eminent domain such property, or rights in property, in excess of that actually to be occupied by the public improvement or used in connection therewith, as may be reasonably necessary to effectuate the purposes intended, and may be vested with the fee simple title thereto, or the control of the use thereof, and may sell such excess property, **subject to the conditions set forth in subsection 4 of section 28 of this article,** with such restrictions as shall be appropriate to preserve the improvements made.

Section 28. **1.** That **taking of** private property [shall not be taken for] **resulting in** private use **or private ownership or other private rights shall not be considered a public use, and no such takings shall occur** with or without compensation, unless by consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in the manner prescribed by law; and that when an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be judicially determined without regard to any legislative declaration that the use is public.

2. The use for property, or rights in property, shall be declared at the time that such property, or rights in property is taken by eminent domain. If that use is not earnestly or substantially pursued, the original owner, his heirs or assigns shall, after five years but prior to any substantial accomplishment of the declared purpose, be allowed to claim the property back at a price no greater than was paid at the time of taking.

3. Subject to the conditions set forth in section 26 of this article, property may be taken for transportation or utility facilities or transmission systems used by a railroad, regulated utility or rural electric cooperative, however, the fee of property taken for such purposes without consent of the owner thereof shall remain in such owner, his heirs or assigns subject to the use for which it is taken.

4. Except as provided for in subsection 1 and subsection 3 of this section, property, a portion thereof, or rights in property taken by eminent domain may not be sold, transferred, leased or otherwise made available for use by a private entity within 20 years of such taking, unless the original owner, his heirs or assigns, have at the time of conveyance of such rights, been afforded the first opportunity to purchase such property back at a price no greater than was paid at the time of taking; however, interests less than fee title may be conveyed to a privately owned business for the purpose of providing products or services incidental to the function of a publicly owned facility.

5. The effective date of this amendment shall be November 5, A.D. 2014, or as soon as is constitutionally permissible, and the provisions of Article I, Sections 26, 27 and 28 apply notwithstanding any application to the contrary of Article VI, Section 21 of this constitution.

14-03

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 9, 2012

RECEIVED
NOV 0 9 2012
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Ron Calzone regarding a proposed constitutional amendment related to Article I, version 2, blue paper (2014-003)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Ron Calzone on November 8, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-03

County _____
(County signers are registered to vote in.)

Page

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Robin Carnahan, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: **I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

CIRCULATOR'S AFFIDAVIT

(Ballot title goes here.)

RECEIVED
2012 NOV -8 PM 10: 18
Robin Carnahan
SEC. OF STATE

STATE OF MISSOURI, COUNTY OF _____
(County in which notary witnessed ciculator's signature.)

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR DIST.	NAME (Printed or Typed)
1.	/ 20__				1.
2.	/ 20__				2.
3.	/ 20__				3.
4.	/ 20__				4.
5.	/ 20__				5.
6.	/ 20__				6.
7.	/ 20__				7.
8.	/ 20__				8.
9.	/ 20__				9.
10.	/ 20__				10.

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.
(County signers are registered to vote in.)

Signature of Affiant: _____
(Person obtaining signatures)

(Address of Affiant)

Subscribed and sworn to before me this

_____ day of _____, A.D._____

Signature of Notary: _____

(Address of Notary)

Notary Public (Seal)
My commission expires _____

14-03

NOTICE: You are advised that the proposed constitutional amendment may be construed to change, repeal, or modify by implication Article VI, Section 21 of the Missouri Constitution.

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Sections 26, 27 and 28 of Article I of the Constitution of Missouri are amended by modifying sections 26, 27 and 28. The existing sections 26, 27 and 28 are set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

Article I - Bill of Rights

In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:

Section 26. [That private property shall not be taken or damaged for public use without just compensation.] **That the power of eminent domain shall be vested in no other than the state, including state entities expressly granted such power by this constitution, or in political subdivisions of the state whose officials are directly accountable to elected officials. That private property shall not be taken or damaged unless such taking is necessary for a public use and just compensation is rendered.** Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be provided by law[;] **. The value of the property may be determined by, but is not limited to, appraisal methods typical to the ordinary course of business, and any evidence which would be considered by an appraiser in the ordinary course of business shall be relevant and admissible.** [and until the same] **Until a final legal determination of the legitimacy of the taking is established and until compensation** shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad purposes without consent of the owner thereof shall remain in such owner subject to the use for which it is taken.

Section 27. That in such manner and under such limitations as may be provided by law, the state, or any county or city may acquire by eminent domain such property, or rights in property, in excess of that actually to be occupied by the public improvement or used in connection therewith, as may be reasonably necessary to effectuate the purposes intended, and may be vested with the fee simple title thereto, or the control of the use thereof, and may sell such excess property, **subject to the conditions set forth in subsection 4 of section 28 of this article,** with such restrictions as shall be appropriate to preserve the improvements made.

Section 28. **1.** That **taking of** private property [shall not be taken for] **resulting in** private use **or private ownership or other private rights shall not be considered a public use, and no such takings shall occur** with or without compensation, unless by consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in the manner prescribed by law; and that when an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be judicially determined without regard to any legislative declaration that the use is public.

2. The use for property, or rights in property, shall be declared at the time that such property, or rights in property is taken by eminent domain. If that use is not earnestly or substantially pursued, the original owner, his heirs or assigns shall, after five years but prior to any substantial accomplishment of the declared purpose, be allowed to claim the property back at a price no greater than was paid at the time of taking.

3. Subject to the conditions set forth in section 26 of this article, property may be taken for transportation or utility facilities or transmission systems used by a railroad, regulated utility or rural electric cooperative, however, the fee of property taken for such purposes without consent of the owner thereof shall remain in such owner, his heirs or assigns subject to the use for which it is taken.

4. Except as provided for in subsection 1 and subsection 3 of this section, property, a portion thereof, or rights in property taken by eminent domain may not be sold, transferred, leased or otherwise made available for use by a private entity within 20 years of such taking, unless the original owner, his heirs or assigns, have at the time of conveyance of such rights, been afforded the first opportunity to purchase such property back at a price no greater than was paid at the time of taking; however, interests less than fee title may be conveyed to a privately owned business for the purpose of providing products or services incidental to the function of a publicly owned facility.

5. The effective date of this amendment shall be November 5, A.D. 2014, or as soon as is constitutionally permissible, and the provisions of Article I, Sections 26, 27 and 28 apply notwithstanding any application to the contrary of Article VI, Section 21 of this constitution.

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

14-04

November 9, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
NOV 0 9 2012
STATE AUDITORS OFFICE

RE: Petition approval request from Ron Calzone regarding a proposed constitutional amendment related to Article VI, version 1, yellow paper (2014-004)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Ron Calzone on November 8, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-04

County _____
(County signers are registered to vote in.)

Page

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: **I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

CIRCULATOR'S AFFIDAVIT

(Ballot title goes here.)

RECEIVED
2012 NOV -8 PM 10: 24
SEC. OF STATE

STATE OF MISSOURI, COUNTY OF _____
(County in which notary witnessed ciculator's signature.)

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR DIST.	NAME (Printed or Typed)
1.	/ 20				1.
2.	/ 20				2.
3.	/ 20				3.
4.	/ 20				4.
5.	/ 20				5.
6.	/ 20				6.
7.	/ 20				7.
8.	/ 20				8.
9.	/ 20				9.
10.	/ 20				10.

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.
(County signers are registered to vote in.)

Signature of Affiant: _____
(Person obtaining signatures)

Signature of Notary: _____

(Address of Affiant)

(Address of Notary)

Subscribed and sworn to before me this

_____ day of _____, A.D._____

Notary Public (Seal)
My commission expires

Be it resolved by the people of the State of Missouri that the Constitution be amended:

14-04

Section 21 of Article VI of the Constitution of Missouri is amended by modifying section 21. The existing section 21 is set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

Article VI – Local Government

Section 21. Laws may be enacted, and any city or county operating under a constitutional charter may enact ordinances **which protect property owners from public nuisances, as defined by the Common Law. In the event that an owner of property is found by a court of competent jurisdiction to be harboring such nuisance and has not fully abated the nuisance within a reasonable time after final judgment, any political subdivision of the state in which the nuisance exists may expend public funds to abate the nuisance and impose a lien on the offending property limited to an amount equal to the costs of the abatement and reasonable interest on such costs. Enforcement of the lien may be accomplished in the same manner as tax liens are enforced.** [, providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard or insanitary areas, and for recreational and other facilities incidental or appurtenant thereto, and for taking or permitting the taking, by eminent domain, of property for such purposes, and when so taken the fee simple title to the property shall vest in the owner, who may sell or otherwise dispose of the property subject to such restrictions as may be deemed in the public interest.]

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

14-05

November 9, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
NOV 0 9 2012
STATE AUDITORS OFFICE

RE: Petition approval request from Ron Calzone regarding a proposed constitutional amendment related to Article VI, version 2, yellow paper (2014-005)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Ron Calzone on November 8, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____
(County signers are registered to vote in.)

1405

Page

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Robin Carnahan, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: **I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

CIRCULATOR'S AFFIDAVIT

(Ballot title goes here.)

RECEIVED
2012 NOV -8 PM 10:24
SEC. OF STATE

STATE OF MISSOURI, COUNTY OF _____
(County in which notary witnessed ciculator's signature.)

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR DIST.	NAME (Printed or Typed)
1.	/ 20				1.
2.	/ 20				2.
3.	/ 20				3.
4.	/ 20				4.
5.	/ 20				5.
6.	/ 20				6.
7.	/ 20				7.
8.	/ 20				8.
9.	/ 20				9.
10.	/ 20				10.

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.
(County signers are registered to vote in.)

Signature of Affiant: _____
(Person obtaining signatures)

Signature of Notary: _____

(Address of Affiant)

(Address of Notary)

Subscribed and sworn to before me this

_____ day of _____, A.D._____

Notary Public (Seal)
My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended: 14-05

Section 21 of Article VI of the Constitution of Missouri is amended by modifying section 21. The existing section 21 is set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

Article VI – Local Government

Section 21. Laws may be enacted, and any city or county operating under a constitutional charter may enact ordinances **which protect property owners from public nuisances, as defined by the Common Law. In the event that an owner of property is found by a court of competent jurisdiction to be harboring such nuisance and has not fully abated the nuisance within a reasonable time after final judgment, any political subdivision of the state in which the nuisance exists may expend public funds to abate the nuisance and impose a lien on the offending property limited to an amount equal to the costs of the abatement and reasonable interest on such costs. Enforcement of the lien may be accomplished in the same manner as tax liens are enforced.** [, providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard or insanitary areas, and for recreational and other facilities incidental or appurtenant thereto, and for taking or permitting the taking, by eminent domain, of property for such purposes, and when so taken the fee simple title to the property shall vest in the owner, who may sell or otherwise dispose of the property subject to such restrictions as may be deemed in the public interest.]

14-006

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 19, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
NOV 19 2012
STATE AUDITORS OFFICE

RE: Petition approval request from Aaron Malin regarding a proposed amendment to the Revised Statutes of Missouri, version 2 (2014-006)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Aaron Malin on November 16, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-006

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Robin Carnahan, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2012 NOV 16 AM 4:38
SEC. OF STATE

Shall the revised Statutes of Missouri be amended to:

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type name of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (House and Street) (City, Town or Village)	ZIP CODE	CONGR DIST.	FULL NAME (Printed or typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

_____
Signature of Affiant

_____ MO _____
(House and Street) (City, Town or Village) (Zip Code) Address of Affiant

Subscribed and sworn to before me, this _____ day of _____, A.D. _____

_____
Signature of Notary

_____ MO _____
(House and Street) (City, Town or Village) (Zip Code) Address of Notary

Notary Public (Seal)
My commission expires _____

14-006

Be it enacted by the people of the State of Missouri, as follows:

Sections 213.010, RSMo, is repealed and new 213.010 enacted in lieu thereof, to read as follows:

213.010. As used in this chapter, the following terms shall mean:

(1) "Age", an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;
(2) "Commission", the Missouri commission on human rights;
(3) "Complainant", a person who has filed a complaint with the commission alleging that another person has engaged in a prohibited discriminatory practice;
(4) "Disability", a physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question. For purposes of this chapter, the term "disability" does not include current, illegal use of or addiction to a controlled substance as such term is defined by section 195.010; however, a person may be considered to have a disability if that person:
(a) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;
(b) Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or
(c) Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance;
(5) "Discrimination", any unfair treatment based on race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, age as it relates to employment, disability, or familial status as it relates to housing; but this section shall not be construed to require any religious denomination or any officiant acting as a representative of a religious denomination to take any action that places a substantial burden on their sincerely held religious beliefs;
(6) "Dwelling", any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;
(7) "Employer" includes the state, or any political or civil subdivision thereof, or any person employing six or more persons within the state, and any person directly acting in the interest of an employer, but does not include corporations and associations owned and operated by religious or sectarian groups;
(8) "Employment agency" includes any person or agency, public or private, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes any person acting in the interest of such a person;
(9) "Executive director", the executive director of the Missouri commission on human rights;
(10) "Familial status", one or more individuals who have not attained the age of eighteen years being domiciled with:
(a) A parent or another person having legal custody of such individual; or
(b) The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;
(11) "Human rights fund", a fund established to receive civil penalties as required by federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and which will be disbursed to offset additional expenses related to compliance with the Department of Housing and Urban Development regulations;
(12) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment;
(13) "Local commissions", any commission or agency established prior to August 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional charter city, town, village, or county;
(14) "Person" includes one or more individuals, corporations, partnerships, associations, organizations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized groups of persons;
(15) "Places of public accommodation", all places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public or such public places providing food, shelter, recreation and amusement, including, but not limited to:
(a) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;
(b) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment;
(c) Any gasoline station, including all facilities located on the premises of such gasoline station and made available to the patrons thereof;
(d) Any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;
(e) Any public facility owned, operated, or managed by or on behalf of this state or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds;
(f) Any establishment which is physically located within the premises of any establishment otherwise covered by this section or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment;
(16) "Rent" includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant;
(17) "Respondent", a person who is alleged to have engaged in a prohibited discriminatory practice in a complaint filed with the commission;
(18) "Unlawful discriminatory practice", any act that is unlawful under this chapter.

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 10 2012
STATE AUDITORS OFFICE

14-014

December 10, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed amendment to the Revised Statutes of Missouri, version 5 (2014-014)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on December 7, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-014

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary (Street, City, State & Zip Code)

Notary Public (Seal)

My commission expires _____

14-OK

Be it enacted by the people of the State of Missouri:

Section A. Sections 290.500, 290.502, 290.512, and 290.527 are amended to read as follows:

§ 290.500. Definitions

As used in sections 290.500 to 290.530, the following words and phrases mean:

(1) "Agriculture", farming and all its branches including, but not limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodities, the raising of livestock, fish and other marine life, bees, fur-bearing animals or poultry and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

(2) "Director", the director of the department of labor and industrial relations or his authorized representative;

(3) "Employee", any individual employed by an employer, except that the term "employee" shall not include:

(a) Any individual employed in a bona fide executive, administrative, or professional capacity;

(b) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(c) Any individual standing in loco parentis to foster children in their care;

(d) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(e) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(f) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(g) Any handicapped person employed in a sheltered workshop, certified by the department of elementary and secondary education;

(h) Any person employed on a casual basis to provide baby-sitting services;

(i) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(j) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(k) Any individual whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employer;

(l) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(m) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred seventy five thousand dollars; provided that starting on January 1, 2016, and on January 1 of successive years, this threshold shall be increased or decreased by the increase or decrease in the cost of living, as determined by the director using the methodology specified in subsection 2 of section 290.502, with the amount of the increase or decrease determined each September 30 and rounded to the nearest five thousand dollars;

(n) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550;

(o) Any individual described by the provisions of section 29 U.S.C. 213(a)(8);

(4) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Learner and apprentice", any individual under 20 years of age who has not completed the required training for a particular job. In no event shall the individual be deemed a learner or apprentice in the occupation after three months of training except where the director finds, after investigation, that for the particular occupation a minimum of proficiency cannot be acquired in three months. In no case shall a person be declared to be a learner or apprentice after six months of training for a particular employer or job. Employees of an amusement or recreation business that meets the criteria set out in 29 U.S.C. § 213(a)(3) may be deemed a learner or apprentice for ninety working days. No individual shall be deemed a learner or apprentice solely for the purpose of evading the provisions of sections 290.500 to 290.530;

K1-014

(6) "Occupation", any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which individuals are gainfully employed;

(7) "Wage", compensation due to an employee by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value;

(8) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons;

(9) "Man-day", any day during which an employee performs any agricultural labor for not less than one hour.

290.502. Minimum wage rate--increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective [January 1, 2007] January 1, 2015, every employer shall pay to each employee no less than wages at the rate of [$6.50] $8.40 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. If the federal minimum wage rate is increased above the minimum wage rate then in effect under this section, the higher federal rate shall become the minimum wage rate in effect under this section. The minimum wage rate in effect under this section shall be increased or decreased on January 1, [2008] 2016, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, [2007] 2015, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirements

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of [fifty] sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

14-04

2. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

290.527. Action for underpayment of wages, employee may bring--limitation

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount <u>equal to twice the underpaid wages</u> as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] <u>three</u> years of the accrual of the cause of action.

RECEIVED
DEC 10 2012
STATE AUDITORS OFFICE

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

14-015

December 10, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed amendment to the Revised Statutes of Missouri, version 6 (2014-015)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on December 7, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-015

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
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10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____ day of _____, A.D. 201_.

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

Notary Public (Seal)

My commission expires _____

14-015

Be it enacted by the people of the State of Missouri:

Section A. Sections 290.500, 290.502, 290.512, and 290.527 are amended to read as follows:

§ 290.500. Definitions

As used in sections 290.500 to 290.530, the following words and phrases mean:

(1) "Agriculture", farming and all its branches including, but not limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodities, the raising of livestock, fish and other marine life, bees, fur-bearing animals or poultry and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

(2) "Director", the director of the department of labor and industrial relations or his authorized representative;

(3) "Employee", any individual employed by an employer, except that the term "employee" shall not include:

(a) Any individual employed in a bona fide executive, administrative, or professional capacity;

(b) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(c) Any individual standing in loco parentis to foster children in their care;

(d) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(e) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(f) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(g) Any handicapped person employed in a sheltered workshop, certified by the department of elementary and secondary education;

14-015

(h) Any person employed on a casual basis to provide baby-sitting services;

(i) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(j) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(k) Any individual whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employer;

(l) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(m) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred seventy five thousand dollars; provided that starting on January 1, 2016, and on January 1 of successive years, this threshold shall be increased or decreased by the increase or decrease in the cost of living, as determined by the director using the methodology specified in subsection 2 of section 290.502, with the amount of the increase or decrease determined each September 30 and rounded to the nearest five thousand dollars;

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(o) Any individual described by the provisions of section 29 U.S.C. 213(a)(8);

(4) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Learner and apprentice", any individual under 20 years of age who has not completed the required training for a particular job. In no event shall the individual be deemed a learner or apprentice in the occupation after three months of training except where the director finds, after investigation, that for the particular occupation a minimum of proficiency cannot be acquired in three months. In no case shall a person be declared to be a learner or apprentice after six months of training for a particular employer or job. Employees of an amusement or recreation business that meets the criteria set out in 29 U.S.C. § 213(a)(3) may be deemed a learner or apprentice for ninety working days. No individual shall be deemed a learner or apprentice solely for the purpose of evading the provisions of sections 290.500 to 290.530;

14-015

(6) "Occupation", any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which individuals are gainfully employed;

(7) "Wage", compensation due to an employee by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value;

(8) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons;

(9) "Man-day", any day during which an employee performs any agricultural labor for not less than one hour.

290.502. Minimum wage rate--increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective [January 1, 2007] January 1, 2015, every employer shall pay to each employee no less than wages at the rate of [$6.50] $8.45 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. If the federal minimum wage rate is increased above the minimum wage rate then in effect under this section, the higher federal rate shall become the minimum wage rate in effect under this section. The minimum wage rate in effect under this section shall be increased or decreased on January 1, [2008] 2016, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, [2007] 2015, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirements

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of [fifty] sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

290.527. Action for underpayment of wages, employee may bring--limitation

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount <u>equal to twice the underpaid wages</u> as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] <u>three</u> years of the accrual of the cause of action.

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 10 2012
STATE AUDITORS OFFICE

14-016

December 10, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed amendment to the Revised Statutes of Missouri, version 7 (2014-016)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on December 7, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-016

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
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5.					
6.					
7.					
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9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____ day of _____, A.D. 201__.

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

Notary Public (Seal)

My commission expires _____

Be it enacted by the people of the State of Missouri:

14-016

Section A. Sections 290.500, 290.502, 290.512, and 290.527 are amended to read as follows:

§ 290.500. Definitions

As used in sections 290.500 to 290.530, the following words and phrases mean:

(1) "Agriculture", farming and all its branches including, but not limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodities, the raising of livestock, fish and other marine life, bees, fur-bearing animals or poultry and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

(2) "Director", the director of the department of labor and industrial relations or his authorized representative;

(3) "Employee", any individual employed by an employer, except that the term "employee" shall not include:

(a) Any individual employed in a bona fide executive, administrative, or professional capacity;

(b) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(c) Any individual standing in loco parentis to foster children in their care;

(d) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(e) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(f) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(g) Any handicapped person employed in a sheltered workshop, certified by the department of elementary and secondary education;

14-016

(h) Any person employed on a casual basis to provide baby-sitting services;

(i) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(j) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(k) Any individual whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employer;

(l) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(m) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred seventy five thousand dollars; provided that starting on January 1, 2016, and on January 1 of successive years, this threshold shall be increased or decreased by the increase or decrease in the cost of living, as determined by the director using the methodology specified in subsection 2 of section 290.502, with the amount of the increase or decrease determined each September 30 and rounded to the nearest five thousand dollars;

(n) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550;

(o) Any individual described by the provisions of section 29 U.S.C. 213(a)(8);

(4) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Learner and apprentice", any individual under 20 years of age who has not completed the required training for a particular job. In no event shall the individual be deemed a learner or apprentice in the occupation after three months of training except where the director finds, after investigation, that for the particular occupation a minimum of proficiency cannot be acquired in three months. In no case shall a person be declared to be a learner or apprentice after six months of training for a particular employer or job. Employees of an amusement or recreation business that meets the criteria set out in 29 U.S.C. § 213(a)(3) may be deemed a learner or apprentice for ninety working days. No individual shall be deemed a learner or apprentice solely for the purpose of evading the provisions of sections 290.500 to 290.530;

(6) "Occupation", any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which individuals are gainfully employed;

(7) "Wage", compensation due to an employee by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value;

(8) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons;

(9) "Man-day", any day during which an employee performs any agricultural labor for not less than one hour.

290.502. Minimum wage rate--increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective [January 1, 2007] January 1, 2015, every employer shall pay to each employee no less than wages at the rate of [$6.50] $8.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. If the federal minimum wage rate is increased above the minimum wage rate then in effect under this section, the higher federal rate shall become the minimum wage rate in effect under this section. The minimum wage rate in effect under this section shall be increased or decreased on January 1, [2008] 2016, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, [2007] 2015, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirements

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of [fifty] sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

14-016

2. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

290.527. Action for underpayment of wages, employee may bring--limitation

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the underpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

RECEIVED
DEC 10 2012
STATE AUDITORS OFFICE

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

14-017

December 10, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed amendment to the Revised Statutes of Missouri, version 8 (2014-017)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on December 7, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-017

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
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10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____ day of _____, A.D. 201__.

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

Notary Public (Seal)

My commission expires _____

Be it enacted by the people of the State of Missouri:

14-017

Section A. Sections 290.500, 290.502, 290.512, and 290.527 are amended to read as follows:

§ 290.500. Definitions

As used in sections 290.500 to 290.530, the following words and phrases mean:

(1) "Agriculture", farming and all its branches including, but not limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodities, the raising of livestock, fish and other marine life, bees, fur-bearing animals or poultry and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

(2) "Director", the director of the department of labor and industrial relations or his authorized representative;

(3) "Employee", any individual employed by an employer, except that the term "employee" shall not include:

(a) Any individual employed in a bona fide executive, administrative, or professional capacity;

(b) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(c) Any individual standing in loco parentis to foster children in their care;

(d) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(e) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(f) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(g) Any handicapped person employed in a sheltered workshop, certified by the department of elementary and secondary education;

14-017

(h) Any person employed on a casual basis to provide baby-sitting services;

(i) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(j) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(k) Any individual whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employer;

(l) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(m) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred seventy five thousand dollars; provided that starting on January 1, 2016, and on January 1 of successive years, this threshold shall be increased or decreased by the increase or decrease in the cost of living, as determined by the director using the methodology specified in subsection 2 of section 290.502, with the amount of the increase or decrease determined each September 30 and rounded to the nearest five thousand dollars;

(n) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550;

(o) Any individual described by the provisions of section 29 U.S.C. 213(a)(8);

(4) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Learner and apprentice", any individual under 20 years of age who has not completed the required training for a particular job. In no event shall the individual be deemed a learner or apprentice in the occupation after three months of training except where the director finds, after investigation, that for the particular occupation a minimum of proficiency cannot be acquired in three months. In no case shall a person be declared to be a learner or apprentice after six months of training for a particular employer or job. Employees of an amusement or recreation business that meets the criteria set out in 29 U.S.C. § 213(a)(3) may be deemed a learner or apprentice for ninety working days. No individual shall be deemed a learner or apprentice solely for the purpose of evading the provisions of sections 290.500 to 290.530;

14-017

(6) "Occupation", any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which individuals are gainfully employed;

(7) "Wage", compensation due to an employee by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value;

(8) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons;

(9) "Man-day", any day during which an employee performs any agricultural labor for not less than one hour.

290.502. Minimum wage rate--increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective [January 1, 2007] January 1, 2015, every employer shall pay to each employee no less than wages at the rate of [$6.50] $9.25 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. If the federal minimum wage rate is increased above the minimum wage rate then in effect under this section, the higher federal rate shall become the minimum wage rate in effect under this section. The minimum wage rate in effect under this section shall be increased or decreased on January 1, [2008] 2016, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, [2007] 2015, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirements

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of [fifty] sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

290.527. Action for underpayment of wages, employee may bring--limitation

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the underpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

RECEIVED
DEC 10 2012
STATE AUDITORS OFFICE

ROBIN CARNAHAN
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

14-018

December 10, 2012

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Maureen Dickmann regarding a proposed amendment to the Revised Statutes of Missouri, version 2 (2014-018)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Maureen Dickmann on December 7, 2012.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Robin Carnahan

Robin Carnahan

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

K4-018 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition. I am a registered voter of the state of Missouri and _____ County (or city of St. Louis). My registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE PROVIDED BY

SECRETARY OF THE STATE TO BE PLACED HERE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,
COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.	/ /				
2.	/ /				
3.	/ /				
4.	/ /				
5.	/ /				
6.	/ /				
7.	/ /				
8.	/ /				
9.	/ /				
10.	/ /				

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence. I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

H-018

Be it enacted by the people of the state of Missouri:

Section A: Sections 367.515, 408.100, 408.500, 408.505 and 408.510 of the Revised Statutes of Missouri are amended and one section relating to consumer credit interest rates, to be known as section 367.105, is enacted as follows:

367.105 Any person making or offering a consumer credit loan shall contract for and receive interest and fees in accordance with sections 408.100, 408.140, and 408.170 and shall be subject to all provisions of those sections.

367.515. A title lender shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140 and shall be subject to all provisions of those sections.

408.100. 1. It is the intent of the people of Missouri to prevent lenders, such as those who make what are commonly known as payday loans, car title loans, and installment loans, which have typically carried triple-digit interest rates as high as three hundred percent annually or higher, from charging excessive fees and interest rates that can lead families into a cycle of debt by:

(1) Reducing the annual percentage rate for payday, title, installment and other high cost consumer credit and small loans from triple-digit interest rates to thirty-six percent per year;

(2) Extending to veterans and others the same thirty-six percent rate limit in place for payday and title loans to active military families as enacted by the 109th United States Congress in 10 U.S.C. § 987; and

(3) Preserving fair lending by prohibiting lenders from structuring other transactions to avoid the rate limit through subterfuge.

2. This section shall apply to all loans which are not made as permitted by other laws of this state except that it shall not apply to loans which are secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations. On any loan subject to this section, any person, firm, or corporation may charge, contract for and receive interest on the unpaid principal balance at rates agreed to by the parties provided that the interest, fees and finance charges shall not exceed an annual percentage rate of thirty-six percent.

3. A person shall not engage in any device or subterfuge intended to evade the requirements of this chapter through any method including, but not limited to, mail, telephone, internet or any electronic means, including:

(1) Offering, making, assisting a borrower to obtain, or brokering a loan at an annual percentage rate prohibited by this section, making loans disguised as personal property sales and leaseback transactions, or disguising loan proceeds as cash rebates for the pretextual installment sale of goods or services;

(2) Making, assisting a borrower to obtain, or brokering an offer of credit, or in whole or in part, from a third party, or acting as an agent for a third party, regardless of whether the third party is exempt from licensing under this article or whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party; or

(3) Charging any application fee for the provision of credit or any fee for participation in a credit plan, if such a fee is authorized under any applicable section of Missouri law, without including the fees in the calculation of the annual percentage rate of the credit in accordance with the allowable rate set forth in this section.

408.500. 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less, commonly known as payday lenders, shall obtain a license from the director of the division of finance. An annual license fee of three hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

2. Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140 and shall be subject to all provisions of those sections. Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes of this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:

NOTICE:

This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least ten- point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

(2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the first renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by not less than five percent of the original amount of the loan until such loan is paid in full. However, no loan may be renewed more than six times.

7. When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

408.505. 1. This section shall apply to:

(1) Unsecured loans made by lenders licensed or who should have been licensed pursuant to section 408.500;

(2) Any person that the Missouri division of finance determines that has entered into a transaction that, in substance, is a disguised loan; and

(3) Any person that the Missouri division of finance determines has engaged in subterfuge for the purpose of avoiding the provisions of this section.

2. All loans made pursuant to this section and section 408.500, shall have a minimum term of fourteen days and a maximum term of thirty-one days, regardless of whether the loan is an original loan or renewed loan.

3. A lender may only charge simple interest and fees in accordance with sections 408.100 and 408.140 and shall be subject to all provisions of those sections. No other charges of any nature shall be permitted

except as provided by this section, including any charges for cashing the loan proceeds if they are given in check form. [However, no borrower shall be required to pay a total amount of accumulated interest and fees in excess of seventy-five percent of the initial loan amount on any single loan authorized pursuant to this section for the entire term of that loan and all renewals authorized by section 408.500 and this section.]

4. A loan made pursuant to the provisions of section 408.500 and this section shall be deemed completed and shall not be considered a renewed loan when the lender presents the instrument for payment or the payee redeems the instrument by paying the full amount of the instrument to the lender. Once the payee has completed the loan, the payee may enter into a new loan with a lender.

5. Except as provided in subsection 3 of this section, no loan made pursuant to this section shall be repaid by the proceeds of another loan made by the same lender or any person or entity affiliated with the lender. A lender, person or entity affiliated with the lender shall not have more than five hundred dollars in loans made pursuant to section 408.500 and this section outstanding to the same borrower at any one time. A lender complies with this subsection if:

(1) The consumer certifies in writing that the consumer does not have any outstanding small loans with the lender which in the aggregate exceeds five hundred dollars, and is not repaying the loan with the proceeds of another loan made by the same lender; and

(2) The lender does not know, or have reason to believe, that the consumer's written certification is false.

6. On a consumer loan transaction where cash is advanced in exchange for a personal check, a return check charge may be charged in the amounts provided by sections 408.653 and 408.654, as applicable.

7. No state or public employee or official, including a judge of any court of this state, shall enforce the provisions of any contract for payment of money subject to this section which violates the provisions of section 408.500 and this section.

8. A person does not commit the crime of passing a bad check pursuant to section 570.120 if at the time the payee accepts a check or similar sight order for the payment of money, he or she does so with the understanding that the payee will not present it for payment until later and the payee knows or has reason to believe that there are insufficient funds on deposit with the drawee at the time of acceptance. However, this section shall not apply if the person's account on which the instrument was written was closed by the consumer before the agreed-upon date of negotiation or the consumer has stopped payment on the check.

9. A lender shall not use a device or agreement that would have the effect of charging or collecting more fees, charges, or interest than allowed by this section, including, but not limited to:

(1) Entering into a different type of transaction;

(2) Entering into a sales lease back arrangement;

(3) Catalog sales;

(4) Entering into any other transaction with the consumer that is designed to evade the applicability of this section.

10. The provisions of this section shall only apply to entities subject to the provisions of section 408.500 and this section.

408.510. Notwithstanding any other law to the contrary, the phrase "consumer installment loans" means secured or unsecured loans of any amount and payable in not less than four substantially equal installments over a period of not less than one hundred twenty days. The phrase "consumer installment lender" means a person licensed to make consumer installment loans. A consumer installment lender shall be licensed in the same manner and upon the same terms as a lender making consumer credit loans. Such consumer installment lenders shall contract for and receive interest and fees in accordance with sections 408.100, 408.140, and 408.170 and shall be subject to all provisions of those sections. Consumer installment lenders shall be subject to the provisions of sections 408.551 to 408.562.

14-022

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 13, 2013

RECEIVED
FEB 13 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Herman Kriegshauser regarding a proposed constitutional amendment to Article X, version 2 (2014-022)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Herman Kriegshauser on February 11, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-022

County_____

Page No._____

It is a Class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned registered voters of the State of Missouri and _____County (or city of St. Louis) respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the fourth day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT, STATE OF MISSOURI, COUNTY OF _____.

I,_____.being first duly sworn, say (print or type name of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
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RECEIVED
2013 FEB 11 AM 8:55
MO SEC. OF STATE

Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence: I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter in the state of Missouri and _____County.

_____
Signature of Affiant (Person obtaining signatures)

Subscribed and sworn to before me this _____day of _____ A.D. _____

_____
Address of Affiant

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My Commission Expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

ARTICLE X – TAXATION

14-022

Section 26. A Missouri State Income Tax Credit of sixty percent (60%) is provided to individuals and corporations who donate directly to:

a. Missouri not-for-profit elementary and secondary schools and/or school districts, and

b. Missouri not-for-profit foundations which provide scholarships for graduates of Missouri secondary schools to attend Missouri not-for-profit higher education colleges,and universities.

These foundations must be approved by the United States Department of the Treasury, Internal Revenue Service, for donors to currently qualify to receive a tax deduction against their Federal and Missouri state income taxes due for the taxable year in which the donation is made.

This Missouri state income tax credit is to be applied to the actual amount of the donation and to be subtracted from the donors Missouri state income tax due for the taxable year in which the donation is made, but not to exceed the donors Missouri state income tax liability for that taxable year. This tax credit is in addition to all Federal and Missouri state income tax deductions currently allowable to the donor.

Further, if Missouri voters approve through an initiative petition or by a referendum of the General Assembly, a Missouri Constitutional amendment to abolish or repeal the current Missouri state income tax on individuals and/or corporations and a different method of taxation is legislated to replace the lost revenues, then sixty percent (60%) of the amount of the individual or corporation donation would be refunded to the donor by the Missouri Department of Revenue from the state tax revenues then collected from the taxpayer donor through the new method or form of taxation.

14-024

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 18, 2013

RECEIVED
MAR 18 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article IX (2014-024)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on March 15, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-024

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2013 MAR 15 PM 3:25
SEC. OF STATE

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____
Signature of Notary

_____
Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the state of Missouri that the Constitution be amended: 14-024

Article IX is amended by adopting six new sections to be known as Article IX, Sections 3(d), 3(e), 3(f), 3(g), 3(h), and 3(i), to read as follows:

Section 3(d). All certificated staff shall be at will employees unless a contract is entered into between a school district and certificated staff (1) prior to the effective date of this section; or (2) pursuant to the provisions of section 3(e), 3(f), and 3(h) of this article. "Certificated staff," as used in this article, shall mean employees of a school district who hold a valid certificate to teach in the State of Missouri.

Section 3(e). No school district receiving any state funding or local tax revenue funding shall enter into new contracts having a term or duration in excess of three years with certificated staff.

Section 3(f). Effective beginning July 1, 2015, and notwithstanding any provisions of this constitution, any school district receiving any state funding or local tax revenue shall develop and implement a standards based performance evaluation system approved by the Missouri Department of Elementary and Secondary Education. The majority of such evaluation system shall be based upon quantifiable student performance data as measured by objective criteria and such evaluation system shall be used in (1) retaining, promoting, demoting, dismissing, removing, discharging and setting compensation for certificated staff; (2) modifying or terminating any contracts with certificated staff; and (3) placing on leave of absence any certificated staff because of a decrease in pupil enrollment, school district reorganization or the financial condition of the school district.

Section 3(g). Nothing in section 3(f) shall prevent a school district from demoting, removing, discharging, or terminating a contract with certificated staff for one or more of the following causes: (1) physical or mental condition unfitting him to instruct or associate with children; (2) immoral conduct; (3) incompetency, inefficiency or insubordination in line of duty; (4) willful or persistent violation of, or failure to obey, state laws or regulations; (5) excessive or unreasonable absence from performance of duties; or (6) conviction of a felony or a crime involving moral turpitude.

Section 3(h). In any suit to challenge a school district's decision regarding retention, promotion, demotion, dismissal, removal, discharge, modification or termination of contracts, or setting compensation of certificated staff, except for decisions made for any of the causes listed in Section 3(g) of this Article, the person bringing such suit must establish that the school district failed to properly utilize the standards based performance evaluation system as referenced in Section 3(f) of this Article.

Section 3(i). Certificated staff shall retain the right to organize and to bargain collectively as provided in article I, section 29 of this Constitution, except with respect to the design and implementation of the performance based evaluation system established in this article, and as otherwise referenced in this article.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

14-026

April 1, 2013

RECEIVED
APR 0 1 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Mark Reading regarding a proposed constitutional amendment to Article I, Version 3 (2014-026)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Mark Reading on March 29, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-026

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

RECEIVED
2013 MAR 29 PM 1:30
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-026

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section in Article I to be known as Section 35 is enacted as follows:

Section 35

1. This section shall be known as the "Voters' Right to Determine and Approve Local Tobacco Taxes Initiative."

2. Notwithstanding section 1 of article X or any other law to the contrary, local voters shall have the right to determine and approve local tobacco taxes in cities and counties.

3. Any local tobacco tax approved by local voters under this initiative shall be used solely for local health care, local public education or local job creation.

4. As used in this initiative, the following terms have the following meanings:

(1) "Local voters" shall not mean the General Assembly nor the local governing body in a city or county, but shall only mean a majority of the qualified voters casting ballots in an election in a city or county on a local tobacco tax measure, whether submitted to local voters by the local governing body or by initiative petition.

(2) "Right to determine and approve local tobacco taxes" means the right, power and authority to determine, approve, set, control, impose, establish, levy, collect, fix, reduce, eliminate or change the rate, base or dedicated use of a city or county excise tax on cigarettes or tobacco products, or other tax on cigarettes or tobacco products, or on the selling of cigarettes or tobacco products.

5. All existing local tobacco taxes in place on the effective date of this initiative shall remain in effect provided, however, that the rate, base or dedicated use of such local tobacco taxes may only be modified with the approval of local voters.

6. The provisions of this initiative are self-executing. Governing bodies in cities and counties are authorized, but not mandated, to submit measures to local voters to determine and approve local tobacco taxes at authorized elections occurring after the date this initiative is approved by voters. In addition, the people are authorized, but not mandated, to submit measures to local voters by initiative petition to determine and approve local tobacco taxes at authorized elections occurring after the date this initiative is approved by voters. The people may submit measures under local initiative petition procedures where otherwise available or, under this subsection, by submitting to the appropriate local election authority a petition signed by five percent of the qualified voters of the city or county as measured by the total number of votes cast for governor in such city or county at the last general gubernatorial election prior to the filing of the petition. For purposes of this subsection, "authorized election" means, for counties, including those recognized under Article VI, Section 31, any election day after January 1, 2015 and, for cities, any election day after July 1, 2015. However, where the people submit a measure to determine and approve local tobacco taxes through initiative petition under this subsection, the authorized election shall be, in the case of a county, including those recognized under Article VI, Section 31, the earliest election day, whether a general, primary, general municipal, or other established election day, after signatures are submitted that is after January 1, 2015, and in the case of a city, the earliest election day, whether a general, primary, general municipal, or other established election day, after signatures are submitted that is after July 1, 2015.

7. All of the provisions of this initiative are severable. If any provision of this initiative is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions shall be and remain valid.

14-030

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 23, 2013

RECEIVED
APR 23 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jewell Patek regarding a proposed constitutional amendment to Article III, Version 2 (2014-030)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Jewell Patek on April 22, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-030

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2014 APR 22 AM 10:48
MO SEC. OF STATE

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Subscribed and sworn to before me this _____ day of _____, A.D. _____

_____
Signature of Affiant
(person obtaining signatures)

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

_____
Address of Affiant

My commission expires _____.

14-030

Be it resolved by the people of the state of Missouri that the Constitution be amended:

By amending Section 44 of Article III of the Constitution of Missouri to read as follows:

Section 44. 1. It is the intent of the people of Missouri to prevent lenders, such as those who make what are commonly known as payday loans, car title loans, and installment loans, from charging excessive fees and interest rates that can lead families into a cycle of debt, while also bolstering state oversight of lenders and preserving Missouri families' access to affordable credit. The people of Missouri aim to accomplish this intent by:

(1) Reducing the annual percentage rate for payday, title, installment, and other high cost consumer credit and small loans from an average of over four hundred fifty percent, as calculated in the 2013 biannual report of the division of finance, and from a maximum allowable rate of approximately one thousand nine hundred fifty percent per year, to a maximum of four hundred percent per year;

(2) Increasing license fees paid by payday and other lenders to generate more money for the division of finance to oversee them and protect borrowers; and

(3) Preserving fair lending by prohibiting lenders from structuring other transactions to avoid the rate limit through subterfuge.

2. Lenders may contract for and receive interest on loans at rates agreed to by the parties provided that the interest, fees, and finance charges on a loan shall not exceed an annual percentage rate of four hundred percent.

3. The division of finance or such other successor agency as may be provided by law is hereby authorized to collect from lenders a license fee of no less than $400 per annum per location, which amount may be increased by law and which shall be collected as provided by law.

4. A lender shall not engage in any device or subterfuge intended to evade the requirements of this section through any method, including:

(1) offering, making, assisting a borrower to obtain, or brokering a loan at an annual percentage rate prohibited by this section, making loans disguised as personal property sales and leaseback transactions, or disguising loan proceeds as cash rebates for the pretextual installment sale of goods or services;

(2) making, assisting a borrower to obtain, or brokering an offer of credit, or in whole or in part, from a third party, or acting as an agent for a third party, regardless of whether the third party is exempt from licensing under this article or whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party; or

(3) charging any application fee for the provision of credit or any fee for participation in a credit plan, if such a fee is authorized under any applicable section of Missouri law, without including the fees in the calculation of the annual percentage rate of the credit in accordance with the allowable rate set forth in this section.

5. For purposes of this section 44, a "lender" consists of the following types of persons or businesses as recognized in the 2012 Supplement to the Revised Missouri Statutes or any amendments thereto: a person in the business of making consumer credit loans; a title lender; a consumer installment lender; or a person in the business of making unsecured loans of five hundred dollars or less for a period of between fourteen and thirty-one days, commonly called payday loans.

6. No law shall be valid fixing rates of interest or return for the loan or use of money, or the service or other charges made or imposed in connection therewith, for any particular group or class engaged in lending money. The rates of interest fixed by law shall be applicable generally and to all lenders without regard to the type or classification of their business.

14-032

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
MAY 06 2013
STATE AUDITORS OFFICE

May 6, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Todd Jones regarding a proposed constitutional amendment related to Article VIII (2014-032)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Todd Jones on May 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-032 County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2013 MAY -3 AM 10: 38
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DISTR.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____

Missouri Constitution Article VIII

14-032

BE IT RESOLVED by the people of the state of Missouri that the Constitution be amended:

One new section is adopted by adding one new section to be known as section 23 of Article VIII to read as follows:

Section 23. 1. This section shall be known as the "Missouri Campaign Contribution Reform Initiative."

2. The people of the State of Missouri hereby find and declare that excessive campaign contributions to political candidates create the potential for corruption and the appearance of corruption; that large campaign contributions made to influence election outcomes allow wealthy individuals, corporations and special interest groups to exercise a disproportionate level of influence over the political process; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; that political contributions from corporations and labor organizations are not necessarily an indication of popular support for the corporation's or labor organization's political ideas and can unfairly influence the outcome of Missouri elections; and that the interests of the public are best served by limiting campaign contributions, providing for full and timely disclosure of campaign contributions, and strong enforcement of campaign finance requirements.

3. (1) Except as provided in subdivisions (2), (3) and (4) of this subsection, the amount of contributions made by or accepted from any person other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, office of state senator, office of state representative or any other state or judicial office, two thousand six hundred dollars.

(2) (a) No political party shall accept aggregate contributions from any person that exceed twenty-five thousand dollars per election at the state, county, municipal, district, ward, and township level combined.

(b) No political party shall accept aggregate contributions from any committee that exceed twenty-five thousand dollars per election at the state, county, municipal, district, ward, and township level combined.

(3) (a) It shall be unlawful for a corporation or labor organization to make contributions to a campaign committee, candidate committee, exploratory committee, political party committee or a political party; except that a corporation or labor organization may establish a continuing committee which may accept contributions or dues from members, officers, directors, employees or security holders.

(b) The prohibition contained in subdivision (a) of this subsection shall not apply to a corporation that:

(i) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and

(ii) Has no security holders or other persons with a claim on its assets or income; and

(iii) Was not established by and does not accept contributions from business corporations or labor organizations.

(4) No candidate's candidate committee shall accept contributions from, or make contributions to, another candidate committee, including any candidate committee, or equivalent entity, established under federal law.

(5) Notwithstanding any other subdivision of this subsection to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayments, is evidenced by a written instrument, and is subject to a due date or amortization schedule. The contribution limits described in this subsection shall not apply to a loan as described in this subdivision.

(6) No campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party shall accept a contribution in cash exceeding one hundred dollars per election.

(7) No contribution shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to conceal the identity of the actual source of the contribution or the actual recipient. Any person who receives contributions for a committee shall disclose to that committee's treasurer, deputy treasurer or candidate the recipient's own name and address and the name and address of the actual source of each contribution such person has received for that committee.

(8) No anonymous contribution of more than twenty-five dollars shall be made by any person, and no anonymous contribution of more than twenty-five dollars shall be accepted by any candidate or committee. If any anonymous contribution of more than twenty-five dollars is received, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and if the contributor's identity cannot be ascertained, the candidate, committee treasurer or deputy treasurer shall immediately transmit that portion of the contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the state.

(9) The maximum aggregate amount of anonymous contributions which shall be accepted per election by any committee shall be the greater of five hundred dollars or one percent of the aggregate amount of all contributions received by that committee in the same election. If any anonymous contribution is received which causes the aggregate total of anonymous contributions to exceed the foregoing limitation, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and, if the contributor's identity cannot be ascertained, the committee treasurer, deputy treasurer or candidate shall immediately transmit the anonymous contribution to the state treasurer to escheat to the state.

(10) Notwithstanding the provisions of subdivision (9) of this subsection, contributions from individuals whose names and addresses cannot be ascertained which are received from a fund-raising activity or event, such as defined in section 130.011, RSMo, as amended from time to time, shall not be deemed anonymous contributions, provided the following conditions are met:

(a) There are twenty-five or more contributing participants in the activity or event;

(b) The candidate, committee treasurer, deputy treasurer or the person responsible for conducting the activity or event makes an announcement that it is illegal for anyone to make or receive a contribution in excess of one hundred dollars unless the contribution is accompanied by the name and address of the contributor;

(c) The person responsible for conducting the activity or event does not knowingly accept payment from any single person of more than one hundred dollars unless the name and address of the person making such payment is obtained and recorded pursuant to the record-keeping requirements of section 130.036, RSMo, as amended from time to time;

(d) A statement describing the event shall be prepared by the candidate or the treasurer of the committee for whom the funds were raised or by the person responsible for conducting the activity or event and attached to the disclosure report of contributions and expenditures required by section 130.041, RSMo, as amended from time to time. The following information to be listed in the statement is in addition to, not in lieu of, the requirements elsewhere in this chapter relating to the recording and reporting of contributions and expenditures:

(i) The name and mailing address of the person or persons responsible for conducting the event or activity and the name and address of the candidate or committee for whom the funds were raised;

(ii) The date on which the event occurred;

(iii) The name and address of the location where the event occurred and the approximate number of participants in the event;

(iv) A brief description of the type of event and the fund-raising methods used;

(v) The gross receipts from the event and a listing of the expenditures incident to the event;

(vi) The total dollar amount of contributions received from the event from participants whose names and addresses were not obtained with such contributions and an explanation of why it was not possible to obtain the names and addresses of such participants;

(vii) The total dollar amount of contributions received from contributing participants in the event who are identified by name and address in the records required to be maintained pursuant to section 130.036, RSMo, as amended from time to time.

(11) No candidate or committee in this state shall accept contributions from any out-of-state committee unless the out-of-state committee from whom the contributions are received has filed a statement of organization pursuant to section 130.021, RSMo, as amended from time to time, or has filed the reports required by sections 130.049 and 130.050, RSMo, as amended from time to time, whichever is applicable to that committee. K4032

(12) Political action committees shall only receive contributions from individuals; unions; federal political action committees; and corporations, associations, and partnerships formed under chapters 347 to 360, RSMo, as amended from time to time, and shall be prohibited from receiving contributions from other political action committees, candidate committees, political party committees, campaign committees, exploratory committees, or debt service committees. However, candidate committees, political party committees, campaign committees, exploratory committees, and debt service committees shall be allowed to return contributions to a donor political action committee that is the origin of the contribution.

(13) The prohibited committee transfers described in subdivision (12) of this subsection shall not apply to the following committees:

(a) The state house committee per political party designated by the respective majority or minority floor leader of the house of representatives or the chair of the state party if the party does not have majority or minority party status;

(b) The state senate committee per political party designated by the respective majority or minority floor leader of the senate or the chair of the state party if the party does not have majority or minority party status.

(14) No person shall transfer anything of value to any committee with the intent to conceal, from the Missouri ethics commission, the identity of the actual source. Any violation of this subdivision shall be punishable as follows:

(a) For the first violation, the Missouri ethics commission shall notify such person that the transfer to the committee is prohibited under this section within five days of determining that the transfer is prohibited, and that such person shall notify the committee to which the funds were transferred that the funds must be returned within ten days of such notification;

(b) For the second violation, the person transferring the funds shall be guilty of a class C misdemeanor;

(c) For the third and subsequent violations, the person transferring the funds shall be guilty of a class D felony.

(15) No person shall make a contribution to a campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party, nor shall any person make such reimbursement expect as provided in subdivision (5) of this subsection.

(16) No campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party shall knowingly accept contributions from:

(a) Any natural person who is not a citizen of the United States;

(b) A foreign government; or

(c) Any foreign corporation that does not have the authority to transact business in this state pursuant to Chapter 347, RSMo, as amended from time to time.

(17) Contributions from persons under fourteen years of age shall be considered made by the parents or guardians of such person and shall be attributed toward any contribution limits prescribed in this chapter. Where the contributor under fourteen years of age has two custodial parents or guardians, fifty percent of the contribution shall be attributed to each parent or guardian, and where such contributor has one custodial parent or guardian, all such contributors shall be attributed to the custodial parent or guardian.

(18) Each limit on contributions described in subdivisons (1), (2)(a), and (2)(b) of this subsection shall be adjusted by an amount based upon the average of the percentage change over a four year

period in the United States Bureau of Labor Statistics Consumer Price Index for Kansas City, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars and the percentage change over a four year period in the United States Bureau of Labor Statistics Consumer Price Index for St. Louis, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2017, and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with Chapter 536, RSMo, as amended from time to time.

4. (1) Notwithstanding the provisions of subsection 3 of section 105.957, RSMo, as amended from time to time, any natural person may file a complaint with the Missouri ethics commission alleging a violation of the provisions of section 3 of this Article by any candidate for elective office, within sixty days prior to the primary election at which such candidate is running for office, until after the general election. Any such complaint shall be in writing, shall state all facts known by the complainant which have given rise to the complaint, and shall be sworn to, under penalty of perjury, by the complainant.

(2) Within the first business day after receipt of a complaint pursuant to this section, the executive director shall supply a copy of the complaint to the person or entity named in the complaint. The executive director of the Missouri ethics commission shall notify the complainant and the person or entity named in the complaint of the date and time at which the commission shall audit and investigate the allegations contained in the complaint pursuant to subdivision (3) of this subsection.

(3) Within fifteen business days of receipt of a complaint pursuant to this section, the commission shall audit and investigate the allegations contained in the complaint and shall determine by a vote of at least four members of the commission that there are reasonable grounds to believe that a violation of law has occurred within the jurisdiction of the commission. The respondent may reply in writing or in person to the allegations contained in the complaint and may state justifications to dismiss the complaint. The complainant may also present evidence in support of the allegations contained in the complaint, but such evidence shall be limited in scope to the allegations contained in the original complaint, and such complaint may not be supplemented or otherwise enlarged in scope.

(4) If, after audit and investigation of the complaint and upon a vote of at least four members of the commission, the commission determines that there are reasonable grounds to believe that a violation of law has occurred within the jurisdiction of the commission, the commission shall proceed with such complaint as provided by sections 105.957 to 105.963, RSMo, as amended from time to time. If the commission does not determine that there are reasonable grounds to believe that such a violation of law has occurred, the complaint shall be dismissed. If a complaint is dismissed, the fact that such complaint was dismissed, with a statement of the nature of the complaint, shall be made public within twenty-four hours of the commission's action.

(5) Any complaint made pursuant to this section, and all proceedings and actions concerning such a complaint, shall be subject to the provisions of subsection 15 of section 105.961, RSMo, as amended from time to time.

(6) No complaint shall be accepted by the commission within fifteen days prior to the primary or general election at which such candidate is running for office.

5. Any person who knowingly and willfully accepts or makes a contribution in violation of any provision of section 3 of this Article or who knowingly and willfully conceals a contribution by filing a false or incomplete report or by not filing a required report under Chapter 130, RSMo, as amended from time to time, shall be held liable to the state in civil penalties in an amount of at least double and up to five times the amount of any such contribution.

6. (1) Any person who purposely violates the provisions of section 3 of this Article is guilty of a class A misdemeanor.

(2) Notwithstanding any other provision of law which bars prosecutions for any offenses other than a felony unless commenced within one year after the commission of the offense, any offense under the provisions of this section may be prosecuted if the indictment be found or prosecution be instituted within three years after the commission of the alleged offense.

(3) Any prohibition to the contrary notwithstanding, no person shall be deprived of the rights, guarantees, protections or privileges accorded by sections 130.011 to 130.026, 130.031 to 130.068, 130.072, and 130.081, RSMO, as amended from time to time, by any person, corporation, entity or political subdivision.

7. As used in this section, the following terms have the following meanings: 14-032

(1) "Appropriate officer" or "appropriate officers", the person or persons designated in section 130.026, or any successor section, to receive certain required statements and reports;

(2) "Candidate", an individual who seeks nomination or election to public office. The term "candidate" includes an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined by such individual at the time the individual meets the conditions described in paragraph (a) or (b) of this subdivision, and an individual who is a write-in candidate as defined in subdivision (26) of this section. A candidate shall be deemed to seek nomination or election when the person first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the person's candidacy for office; or

(b) Knows or has reason to know that contributions are being received or expenditures are being made or space or facilities are being reserved with the intent to promote the person's candidacy for office; except that, such individual shall not be deemed a candidate if the person files a statement with the appropriate officer within five days after learning of the receipt of contributions, the making of expenditures, or the reservation of space or facilities disavowing the candidacy and stating that the person will not accept nomination or take office if elected; provided that, if the election at which such individual is supported as a candidate is to take place within five days after the person's learning of the above-specified activities, the individual shall file the statement disavowing the candidacy within one day; or

(c) Announces or files a declaration of candidacy for office.

(3) "Cash", currency, coin, United States postage stamps, or any negotiable instrument which can be transferred from one person to another person without the signature or endorsement of the transferor.

(4) "Committee", a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee.

(5) "Committee", does not include:

(a) A person or combination of persons, if neither the aggregate of expenditures made nor the aggregate of contributions received during a calendar year exceeds five hundred dollars and if no single contributor has contributed more than two hundred fifty dollars of such aggregate contributions;

(b) An individual, other than a candidate, who accepts no contributions and who deals only with the individual's own funds or property;

(c) A corporation, cooperative association, partnership, proprietorship, or joint venture organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure, and it accepts no contributions, and all expenditures it makes are from its own funds or property obtained in the usual course of business or in any commercial or other transaction and which are not contributions as defined by subdivision (7) of this section;

(d) A labor organization organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates, or the qualification, passage, or defeat of any ballot measure, and it accepts no contributions, and expenditures made by the organization are from its own funds or property received from membership dues or membership fees which were given or solicited for the purpose of supporting the normal and usual activities and functions of the organization and which are not contributions as defined by subdivision (7) of this section;

(e) A person who acts as an authorized agent for a committee in soliciting or receiving contributions or in making expenditures or incurring indebtedness on behalf of the committee if

such person renders to the committee treasurer or deputy treasurer or candidate, if applicable, an accurate account of each receipt or other transaction in the detail required by the treasurer to comply with all record-keeping and reporting requirements; or

14-032

(f) Any department, agency, board, institution or other entity of the state or any of its subdivisions or any officer or employee thereof, acting in the person's official capacity.

(6) The term "committee" includes, but is not limited to, each of the following committees: campaign committee, candidate committee, continuing committee and political party committee;

(a) "Campaign committee", a committee, other than a candidate committee, which shall be formed by an individual or group of individuals to receive contributions or make expenditures and whose sole purpose is to support or oppose the qualification and passage of one or more particular ballot measures in an election or the retention of judges under the nonpartisan court plan, such committee shall be formed no later than thirty days prior to the election for which the committee receives contributions or makes expenditures, and which shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the general election, except that no committee retiring debt shall engage in any other activities in support of a measure for which the committee was formed;

(b) "Candidate committee", a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy and which shall continue in existence for use by an elected candidate or which shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt shall engage in any other activities in support of the candidate for which the committee was formed. Any candidate for elective office shall have only one candidate committee for the elective office sought, which is controlled directly by the candidate for the purpose of making expenditures. A candidate committee is presumed to be under the control and direction of the candidate unless the candidate files an affidavit with the appropriate officer stating that the committee is acting without control or direction on the candidate's part;

(c) "Continuing committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. "Continuing committee" includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures; and

(d) "Connected organization", any organization such as a corporation, a labor organization, a membership organization, a cooperative, or trade or professional association which expends funds or provides services or facilities to establish, administer or maintain a committee or to solicit contributions to a committee from its members, officers, directors, employees or security holders. An organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses.

(7) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure, or for the support of any committee supporting or opposing candidates or ballot measures or for paying debts or obligations of any candidate or committee previously incurred for the above purposes. A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value. "Contribution" includes, but is not limited to:

(a) A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

(b) Payment by any person, other than a candidate or committee, to compensate another person for services rendered to that candidate or committee;

(c) Receipts from the sale of goods and services, including the sale of advertising space in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of tickets or political merchandise;

K1-032

(d) Receipts from fund-raising events including testimonial affairs;

(e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in an election campaign or used or intended for the payment of such debts or obligations of a candidate or committee previously incurred, or which was made or received by a committee;

(f) Funds received by a committee which are transferred to such committee from another committee or other source, except funds received by a candidate committee as a transfer of funds from another candidate committee controlled by the same candidate but such transfer shall be included in the disclosure reports;

(g) Facilities, office space or equipment supplied by any person to a candidate or committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or committees, on an equal basis for similar purposes on the same conditions; and

(h) The direct or indirect payment by any person, other than a connected organization, of the costs of establishing, administering, or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee.

(8) "Contribution" does not include:

(a) Ordinary home hospitality or services provided without compensation by individuals volunteering their time in support of or in opposition to a candidate, committee or ballot measure, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

(b) An offer or tender of a contribution which is expressly and unconditionally rejected and returned to the donor within ten business days after receipt or transmitted to the state treasurer;

(c) Interest earned on deposit of committee funds; or

(d) The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021, RSMo, as amended from time to time, for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization.

(9) "County", any one of the several counties of this state or the city of St. Louis.

(10) "Disclosure report", an itemized report of receipts, expenditures and incurred indebtedness which is prepared on forms approved by the Missouri ethics commission and filed at the times and places prescribed.

(11) "Election", any primary, general or special election held to nominate or elect an individual to public office, to retain or recall an elected officeholder or to submit a ballot measure to the voters, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(12) "Expenditure", a payment, advance, conveyance, deposit, donation or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee; a payment, or an agreement or promise to pay, money or anything of value, including a candidate's own money or property, for the purchase of goods, services, property, facilities or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee. An expenditure of anything

of value shall be deemed to have a money value equivalent to the fair market value. "Expenditure" includes, but is not limited to:

(a) Payment by anyone other than a committee for services of another person rendered to such committee;

(b) The purchase of tickets, goods, services or political merchandise in connection with any testimonial affair or fund-raising event of or for candidates or committees, or the purchase of advertising in a brochure, booklet, program or pamphlet of a candidate or committee;

(c) The transfer of funds by one committee to another committee; and

(d) The direct or indirect payment by any person, other than a connected organization for a committee, of the costs of establishing, administering or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee.

(13) "Expenditure" does not include:

(a) Any news story, commentary or editorial which is broadcast or published by any broadcasting station, newspaper, magazine or other periodical without charge to the candidate or to any person supporting or opposing a candidate or ballot measure;

(b) The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders, provided that the cost incurred is reported pursuant to subsection 2 of section 130.051, RSMo, as amended from time to time;

(c) Repayment of a loan, but such repayment shall be indicated in required reports;

(d) The rendering of voluntary personal services by an individual of the sort commonly performed by volunteer campaign workers and the payment by such individual of the individual's necessary and ordinary personal expenses incidental to such volunteer activity, provided no compensation is, directly or indirectly, asked or given;

(e) The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021, RSMo, as amended from time to time, for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization; or

(f) The use of a candidate's own money or property for expense of the candidate's personal food, lodging, travel, and payment of any fee necessary to the filing for public office, if such expense is not reimbursed to the candidate from any source.

(14) "Exploratory committees", a committee which shall be formed by an individual to receive contributions and make expenditures on behalf of this individual in determining whether or not the individual seeks elective office. Such committee shall terminate no later than December thirty-first of the year prior to the general election for the possible office.

(15) "Fund-raising event", an event such as a dinner, luncheon, reception, coffee, testimonial, rally, auction or similar affair through which contributions are solicited or received by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise.

(16) "In-kind contribution" or "in-kind expenditure", a contribution or expenditure in a form other than money.

(17) "Labor organization", any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(18) "Loan", a transfer of money, property or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part and which was contracted, used, or intended for use in an election campaign, or which was made or received by a committee or which was contracted, used, or intended to pay previously incurred campaign debts or obligations of a candidate or the debts or obligations of a committee.

14-032

(19) "Person", an individual, group of individuals, corporation, partnership, committee, proprietorship, joint venture, any department, agency, board, institution or other entity of the state or any of its political subdivisions, union, labor organization, trade or professional or business association, association, political party or any executive committee thereof, or any other club or organization however constituted or any officer or employee of such entity acting in the person's official capacity.

(20) "Political action committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee, political party committee, campaign committee, exploratory committee, or debt service committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. Such a committee includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures.

(21) "Political merchandise", goods such as bumper stickers, pins, hats, ties, jewelry, literature, or other items sold or distributed at a fund-raising event or to the general public for publicity or for the purpose of raising funds to be used in supporting or opposing a candidate for nomination or election or in supporting or opposing the qualification, passage or defeat of a ballot measure.

(22) "Political party", a political party which has the right under law to have the names of its candidates listed on the ballot in a general election.

(23) "Political party committee", a state, district, county, city, or area committee of a political party, as defined in section 115.603, RSMo, as amended from time to time, which may be organized as a not-for-profit corporation under Missouri law, and which committee is of continuing existence, and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party.

(24) "Public office" or "office", any state, judicial, county, municipal, school or other district, ward, township, or other political subdivision office or any political party office which is filled by a vote of registered voters.

(25) "Write-in candidate", an individual whose name is not printed on the ballot but who otherwise meets the definition of candidate in subdivision (2) of this section.

8. The provisions of this section are self-executing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

14-033

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 6, 2013

RECEIVED
MAY 06 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Todd Jones regarding a proposed constitutional amendment related to Article IX (2014-033)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Todd Jones on May 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-033 County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2013 MAY -3 AM 10:40
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DISTR.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
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24.						
25.						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____

Missouri Constitution Article VIII

14-033

BE IT RESOLVED by the people of the state of Missouri that the Constitution be amended:

Section 8 of Article IX of the Constitution of Missouri is amended by repealing Section 8. The existing section 8 is set forth hereinafter with the deleted matter in brackets, [thus]:

[Section 8. Neither the general assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university, or other institution of learning controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state, or any county, city, town, or other municipal corporation, for any religious creed, church, or sectarian purpose whatever.]

14-037

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

May 30, 2013

RECEIVED
MAY 30 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Whitfield Montgomery regarding a proposed constitutional amendment related to Article I, Version 3 (2014-037)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Whitfield Montgomery on May 28, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-037

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

RECEIVED
2013 MAY 29 AM 10:07
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
1.					
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10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Subscribed and sworn to before me this _____ day of _____, A.D. _____

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____.

_____
Signature of Affiant
(person obtaining signatures)

_____

_____
Address of Affiant

Be it resolved by the people of the state of Missouri that the Constitution be amended:

14-037

By adding one new section to Article I of the Missouri Constitution, as follows:

Section 36(a) 1. This section shall be known as the "Consumer Borrowers' Bill of Rights."

2. No borrower shall be prosecuted in the criminal courts of the state for failure to repay a loan taken in good faith.
3. Any lender that purposely and repeatedly violates in this state subsections 4,5,6, or 9, or that purposely and repeatedly makes loans at more than twice the rate permitted in subsection 8, commits the crime of "predatory lending." A lender's first conviction shall be punishable by a fine not to exceed one thousand dollars. Subsequent convictions shall be punishable by a fine not to exceed five thousand dollars.
4. No lender shall make threats of criminal prosecution as a result of a borrower's check being returned unpaid.
5. Any borrower shall have the right to rescind at no cost any loan agreement by returning the full principal balance and delivering within two business days a written rescission to the lender at the place where the loan was made, or if the loan was not made at a physical location, by using the same means or device through which the loan was made. No lender shall refuse a borrower's request that complies with this subsection.
6. Borrowers shall have the right, at no cost and for any reason whatsoever, to request and receive an extended payment plan by executing a written amendment to the loan by the close of business the day before the loan is due. No lender shall refuse a borrower's request that complies with this subsection.
7. All lenders shall display the provisions of this section, and other disclosures that may be provided by law, in their businesses in plain view of the area where loans are closed and in boldfaced type that is at least 18 points in size.
8. The interest, fees, and finance charges lenders may charge to borrowers who are active-duty members of the United States armed forces, active-duty members of the Missouri National Guard, or uniformed emergency first-responders may not exceed an annual percentage rate of 36%. The interest, fees, and finance charges lenders may charge to all other borrowers may not exceed the fair market annual percentage rate.
9. Every agreement between a lender and borrower, whether in a physical or electronic format, shall clearly state, beginning within three inches of the top of the first page, in boldfaced type that is at least 18 points in size, the cost of the loan expressed in each of the following measures: (1) dollars per $100; (2) annual percentage rate; and (3) finance charge, or the total number of dollars that the credit will cost. The agreement shall in a similar style and size of font state the amount financed and the total number of payments to be made.
10. Unless otherwise stated herein, all portions of this section are self-executing. No law shall be valid that would relax the restrictions of this section or alter the limits on the annual rate of interest, fees, and finance charges in subsection 8. All provisions of the Consumer Borrowers' Bill of Rights are severable. This section shall only apply to contracts entered into on or after its effective date.
11. For purposes of this section, the following definitions apply:
    a. a "loan" is any of the following: (1) a written agreement to borrow five hundred dollars or less to be repaid within fourteen to thirty-one days; (2) an agreement to borrow money for personal, family or household purposes in amounts of five hundred dollars or more; (3) a title loan agreement; or (4) an agreement to borrow any amount, secured or unsecured, payable in not less than four substantially equal installments over a period of not less than one hundred twenty days;

14-037

b. a "lender" and "borrower," respectively, are defined as a person that makes or that takes out a "loan" as defined herein;

c. an "extended payment plan" ("EPP") is a plan that pertains only to the type of loan identified in subsection 11.a(1). An EPP may allow borrowers to make up to four equal payments at regular intervals until the balance is paid. An EPP may allow for charges, including acceleration of the unpaid balance, in the event of default on a payment. Borrowers may not receive more than two EPPs from a single lender in a single year;

d. The "fair market annual percentage rate" is the annual percentage rate that would apply to a $100, 30-day loan which required payment of no more than $36 in interest, fees, and finance charges. For all purposes herein, "interest, fees, and finance charges" exclude returned check fees, late charges, and collection costs and fees, and exclude other fees as may be provided by law;

e. "repeatedly violates" means a lender's commission of violations with respect to loans requested or taken by six or more customers within a six-month period, and "repeatedly makes" means loans made with six or more customers within a six-month period; and

f. "first responders" are active duty law enforcement, police, firefighters, search and rescue, hazardous materials or explosives service providers, or emergency medical service providers, who are employed by or under contract to provide services to the federal government, the state, or a political subdivision of the state and who, at the time of contracting for the loan, present themselves in person to the lender in a government issued uniform with a government issued badge and a government issued photo identification card.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

K1-038

May 30, 2013

RECEIVED
MAY 30 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Whitfield Montgomery regarding a proposed constitutional amendment related to Article III, Version 4 (2014-038)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Whitfield Montgomery on May 28, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-038 County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2013 MAY 29 AM 10: 08
MO SEC. OF STATE

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
1.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Subscribed and sworn to before me this _____ day of _____, A.D. _____

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____.

_____
Signature of Affiant
(person obtaining signatures)

_____

_____
Address of Affiant

Be it resolved by the people of the state of Missouri that the Constitution be amended:

By adding one new section to Article III of the Missouri Constitution, as follows: 14-038

Section 44(a) 1. This section shall be known as the "Consumer Borrowers' Bill of Rights."

2. No borrower shall be prosecuted in the criminal courts of the state for failure to repay a loan taken in good faith.
3. Any lender that purposely and repeatedly violates in this state subsections 4,5,6, or 9, or that purposely and repeatedly makes loans at more than twice the rate permitted in subsection 8, commits the crime of "predatory lending." A lender's first conviction shall be punishable by a fine not to exceed one thousand dollars. Subsequent convictions shall be punishable by a fine not to exceed five thousand dollars.
4. No lender shall make threats of criminal prosecution as a result of a borrower's check being returned unpaid.
5. Any borrower shall have the right to rescind at no cost any loan agreement by returning the full principal balance and delivering within two business days a written rescission to the lender at the place where the loan was made, or if the loan was not made at a physical location, by using the same means or device through which the loan was made. No lender shall refuse a borrower's request that complies with this subsection.
6. Borrowers shall have the right, at no cost and for any reason whatsoever, to request and receive an extended payment plan by executing a written amendment to the loan by the close of business the day before the loan is due. No lender shall refuse a borrower's request that complies with this subsection.
7. All lenders shall display the provisions of this section, and other disclosures that may be provided by law, in their businesses in plain view of the area where loans are closed and in boldfaced type that is at least 18 points in size.
8. The interest, fees, and finance charges lenders may charge to borrowers who are active-duty members of the United States armed forces, active-duty members of the Missouri National Guard, or uniformed emergency first-responders may not exceed an annual percentage rate of 36%. The interest, fees, and finance charges lenders may charge to all other borrowers may not exceed the fair market annual percentage rate.
9. Every agreement between a lender and borrower, whether in a physical or electronic format, shall clearly state, beginning within three inches of the top of the first page, in boldfaced type that is at least 18 points in size, the cost of the loan expressed in each of the following measures: (1) dollars per $100; (2) annual percentage rate; and (3) finance charge, or the total number of dollars that the credit will cost. The agreement shall in a similar style and size of font state the amount financed and the total number of payments to be made.
10. Unless otherwise stated herein, all portions of this section are self-executing. No law shall be valid that would relax the restrictions of this section or alter the limits on the annual rate of interest, fees, and finance charges in subsection 8. All provisions of the Consumer Borrowers' Bill of Rights are severable. This section shall only apply to contracts entered into on or after its effective date.
11. For purposes of this section, the following definitions apply:
    a. a "loan" is any of the following: (1) a written agreement to borrow five hundred dollars or less to be repaid within fourteen to thirty-one days; (2) an agreement to borrow money for personal, family or household purposes in amounts of five hundred dollars or more; (3) a title loan agreement; or (4) an agreement to borrow any amount, secured or unsecured, payable in not less than four substantially equal installments over a period of not less than one hundred twenty days;

14-038

b. a "lender" and "borrower," respectively, are defined as a person that makes or that takes out a "loan" as defined herein;

c. an "extended payment plan" ("EPP") is a plan that pertains only to the type of loan identified in subsection 11.a(1). An EPP may allow borrowers to make up to four equal payments at regular intervals until the balance is paid. An EPP may allow for charges, including acceleration of the unpaid balance, in the event of default on a payment. Borrowers may not receive more than two EPPs from a single lender in a single year;

d. The "fair market annual percentage rate" is the annual percentage rate that would apply to a $100, 30-day loan which required payment of no more than $36 in interest, fees, and finance charges. For all purposes herein, "interest, fees, and finance charges" exclude returned check fees, late charges, and collection costs and fees, and exclude other fees as may be provided by law;

e. "repeatedly violates" means a lender's commission of violations with respect to loans requested or taken by six or more customers within a six-month period, and "repeatedly makes" means loans made with six or more customers within a six-month period; and

f. "first responders" are active duty law enforcement, police, firefighters, search and rescue, hazardous materials or explosives service providers, or emergency medical service providers, who are employed by or under contract to provide services to the federal government, the state, or a political subdivision of the state and who, at the time of contracting for the loan, present themselves in person to the lender in a government issued uniform with a government issued badge and a government issued photo identification card.

14-039

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

June 25, 2013

RECEIVED
JUN 25 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Tammy O'Meara regarding a proposed amendment to the Revised Statutes of Missouri, Version 4 (2014-039)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Tammy O'Meara on June 24, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
2013 JUN 24 AM 10:47
SECRETARY OF STATE

14-039

County

Page No.

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

Initiative Petition

To the Honorable Jason Kander, Secretary of the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution) shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and ..... County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Insert Summary Statement)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ..., being first duly sworn, say (print or type names of signers)

Name (Signature)	Date Signed	Registered Voting Address (Street)(City,Town or Village)	Zip Code	Congr. Dist.	NAME (Printed or Typed)

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and ..... County.

.....
Signature of Affiant
(Person obtaining signatures)

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. ..... .

.....
Signature of Notary
Address of Notary
Notary Public (Seal)

My commission expires .....

14-039

Be it enacted by the people of the State of Missouri:

A New Provision of the Missouri Statute 302.021

A person commits the crime of motorcycle passenger prohibition if such person fails to comply with the following:

1) A properly licensed Missouri operator of a motorcycle as defined by Missouri law shall not be allowed to have a passenger on his/her motorcycle until after the operator reaches the age of 21.
2) Once the properly licensed motorcycle operator reaches the age of 21, he or she shall also be required to attend and successfully complete a motorcycle rider-safety class which is approved by the License Bureau of the Missouri Department of Revenue.
3) The first violation of this offense is a Class C Misdemeanor unless the actor has previously been convicted of this offense, in which case it is a Class B Misdemeanor, unless the actor has previously been convicted twice of this offense, in which case it is a Class A Misdemeanor.
4) A person who is convicted of violating this statute will have committed a moving violation and shall have 3 points assessed against his/her Missouri operator's license.
5) If the properly licensed Missouri operator of a motorcycle has maintained a motorcycle license for at least the previous 2 years and was born in 1984 or prior, he or she is not required to complete a motorcycle rider-safety class to have a passenger.

RECEIVED
2013 JUN 24 AM 10:47
MO SEC. OF STATE

14-040

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 2, 2013

RECEIVED
JUL 02 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jewell Patek regarding a proposed constitutional amendment to Article III, Version 3 (2014-040)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Jewell Patek on July 1, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-040

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the State of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

RECEIVED
2014 JUL -1 AM 8:39
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
1.					
2.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

Subscribed and sworn to before me this _____day of _____, A.D. _____

_____
Signature of Affiant
(person obtaining signatures)

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

_____
Address of Affiant

My commission expires _____.

14-040

Be it resolved by the people of the state of Missouri that the Constitution be amended:

By amending Section 44 of Article III of the Constitution of Missouri to read as follows:

Section 44. No law shall be valid fixing rates of interest or return for the loan or use of money, or the service or other charges made or imposed in connection therewith, for any particular group or class engaged in lending money. The rates of interest fixed by law shall be applicable generally and to all lenders without regard to the type or classification of their business. No law fixing rates of interest for the loan or use of money, or other charges made or imposed in connection therewith shall be valid if it: fixes the rate in excess of $18 per $100 loaned per 30 days or fails to give the borrower and lender the right to agree to a different rate in writing.

14-041

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

July 2, 2013

RECEIVED
JUL 02 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Whitfield Montgomery regarding a proposed constitutional amendment to Article III, version 5 (2014-041)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Whitfield Montgomery on July 1, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-041

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Subscribed and sworn to before me this _____ day of _____, A.D. _____

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____.

_____
Signature of Affiant
(person obtaining signatures)

_____
Address of Affiant

MO SEC. OF STATE
2013 JUL -1 AM 9:56
RECEIVED

14-041

Be it resolved by the people of the state of Missouri that the Constitution be amended:

By adding one new section to Article III of the Missouri Constitution, as follows:

Section 44(a) 1. This section shall be known as the "Consumer Borrowers' Bill of Rights."

2. No borrower shall be prosecuted in the criminal courts of the state for failure to repay a loan taken in good faith.
3. Any lender that purposely and repeatedly violates in this state subsections 4,5,6, or 9, or that purposely and repeatedly makes loans at more than twice the rate permitted in subsection 8, commits the crime of "predatory lending." A lender's first conviction shall be punishable by a fine not to exceed one thousand dollars. Subsequent convictions shall be punishable by a fine not to exceed five thousand dollars.
4. No lender shall make threats of criminal prosecution as a result of a borrower's check being returned unpaid.
5. Any borrower shall have the right to rescind at no cost any loan agreement by returning the full principal balance and delivering within two business days a written rescission to the lender at the place where the loan was made, or if the loan was not made at a physical location, by using the same means or device through which the loan was made. No lender shall refuse a borrower's request that complies with this subsection.
6. Borrowers shall have the right, at no cost and for any reason whatsoever, to request and receive an extended payment plan by executing a written amendment to the loan by the close of business the day before the loan is due. No lender shall refuse a borrower's request that complies with this subsection.
7. All lenders shall display the provisions of this section, and other disclosures that may be provided by law, in their businesses in plain view of the area where loans are closed and in boldfaced type that is at least 18 points in size.
8. The interest, fees, and finance charges for loans under subsection 11(a)(1) to borrowers who are active-duty members of the United States armed forces may not exceed an annual percentage rate of 36%. The interest, fees, and finance charges lenders may charge to all other borrowers may not exceed the fair market annual percentage rate.
9. Every agreement between a lender and borrower, whether in a physical or electronic format, shall clearly state, beginning within three inches of the top of the first page, in boldfaced type that is at least 18 points in size, the cost of the loan expressed in each of the following measures: (1) dollars per $100; (2) annual percentage rate; and

14-041

(3) finance charge, or the total number of dollars that the borrower will pay. The agreement shall in a similar style and size of font state the amount financed and the total number of payments to be made.

10. Unless otherwise stated herein, all portions of this section are self-executing. No law shall be valid that would relax the restrictions of this section or reduce the limits on the annual rate of interest, fees, and finance charges in subsection 8. All provisions of the Consumer Borrowers' Bill of Rights are severable. This section shall only apply to contracts entered into on or after its effective date.

11. For purposes of this section, the following definitions apply:

    a. a "loan" is any of the following: (1) a written agreement to borrow five hundred dollars or less to be repaid within fourteen to thirty-one days; (2) an agreement to borrow money for personal, family or household purposes in amounts of five hundred dollars or more; (3) a title loan agreement; or (4) an agreement to borrow any amount, secured or unsecured, payable in not less than four substantially equal installments over a period of not less than one hundred twenty days. Solely for purposes of subsections 8 and 10, a "loan" shall also include any agreement to borrow five thousand dollars or less for any term for personal, family, or household purposes;

    b. a "lender" and "borrower," respectively, are defined as a person that makes or that takes out a "loan" as defined herein;

    c. an "extended payment plan" ("EPP") is a plan that pertains only to the type of loan identified in subsection 11.a(1). An EPP may allow borrowers to make up to four equal payments at regular intervals until the balance is paid. An EPP may allow for charges, including acceleration of the unpaid balance, in the event of default on a payment. Borrowers may not receive more than two EPPs from a single lender in a calendar year;

    d. The "fair market annual percentage rate" is the annual percentage rate that would apply to a $100, 14-day loan which required payment of no more than $36 in interest, fees, and finance charges. For all purposes herein, "interest, fees, and finance charges" exclude returned check fees, late charges, and collection costs and fees, and exclude other fees as may be provided by law; and

    e. "repeatedly violates" means a lender's commission of violations with respect to loans requested or taken by six or more customers within a six-month period, and "repeatedly makes" means loans made with six or more customers within a six-month period.

14-042

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 2, 2013

RECEIVED
JUL 02 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Whitfield Montgomery regarding a proposed constitutional amendment to Article I, version 6 (2014-042)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Whitfield Montgomery on July 1, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-042

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Subscribed and sworn to before me this _____ day of _____, A.D. _____

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____.

_____
Signature of Affiant
(person obtaining signatures)

_____

_____
Address of Affiant

RECEIVED
2014 SEP -1 AM 9:56
MO SEC. OF STATE

14-042

Be it resolved by the people of the state of Missouri that the Constitution be amended:

By adding one new section to Article I of the Missouri Constitution, as follows:

Section 36(a) 1. This section shall be known as the "Consumer Borrowers' Bill of Rights."

2. No borrower shall be prosecuted in the criminal courts of the state for failure to repay a loan taken in good faith.
3. Any lender that purposely and repeatedly violates in this state subsections 4,5,6, or 9, or that purposely and repeatedly makes loans at more than twice the rate permitted in subsection 8, commits the crime of "predatory lending." A lender's first conviction shall be punishable by a fine not to exceed one thousand dollars. Subsequent convictions shall be punishable by a fine not to exceed five thousand dollars.
4. No lender shall make threats of criminal prosecution as a result of a borrower's check being returned unpaid.
5. Any borrower shall have the right to rescind at no cost any loan agreement by returning the full principal balance and delivering within two business days a written rescission to the lender at the place where the loan was made, or if the loan was not made at a physical location, by using the same means or device through which the loan was made. No lender shall refuse a borrower's request that complies with this subsection.
6. Borrowers shall have the right, at no cost and for any reason whatsoever, to request and receive an extended payment plan by executing a written amendment to the loan by the close of business the day before the loan is due. No lender shall refuse a borrower's request that complies with this subsection.
7. All lenders shall display the provisions of this section, and other disclosures that may be provided by law, in their businesses in plain view of the area where loans are closed and in boldfaced type that is at least 18 points in size.
8. The interest, fees, and finance charges for loans under subsection 11(a)(1) to borrowers who are active-duty members of the United States armed forces may not exceed an annual percentage rate of 36%. The interest, fees, and finance charges lenders may charge to all other borrowers may not exceed the fair market annual percentage rate.
9. Every agreement between a lender and borrower, whether in a physical or electronic format, shall clearly state, beginning within three inches of the top of the first page, in boldfaced type that is at least 18 points in size, the cost of the loan expressed in each of the following measures: (1) dollars per $100; (2) annual percentage rate; and (3) finance charge, or the total number of dollars that the borrower will pay. The

14-042

agreement shall in a similar style and size of font state the amount financed and the total number of payments to be made.

10. Unless otherwise stated herein, all portions of this section are self-executing. No law shall be valid that would relax the restrictions of this section or reduce the limits on the annual rate of interest, fees, and finance charges in subsection 8. All provisions of the Consumer Borrowers' Bill of Rights are severable. This section shall only apply to contracts entered into on or after its effective date.

11. For purposes of this section, the following definitions apply:

    a. a "loan" is any of the following: (1) a written agreement to borrow five hundred dollars or less to be repaid within fourteen to thirty-one days; (2) an agreement to borrow money for personal, family or household purposes in amounts of five hundred dollars or more; (3) a title loan agreement; or (4) an agreement to borrow any amount, secured or unsecured, payable in not less than four substantially equal installments over a period of not less than one hundred twenty days. Solely for purposes of subsections 8 and 10, a "loan" shall also include any agreement to borrow five thousand dollars or less for any term for personal, family, or household purposes;

    b. a "lender" and "borrower," respectively, are defined as a person that makes or that takes out a "loan" as defined herein;

    c. an "extended payment plan" ("EPP") is a plan that pertains only to the type of loan identified in subsection 11.a(1). An EPP may allow borrowers to make up to four equal payments at regular intervals until the balance is paid. An EPP may allow for charges, including acceleration of the unpaid balance, in the event of default on a payment. Borrowers may not receive more than two EPPs from a single lender in a calendar year;

    d. The "fair market annual percentage rate" is the annual percentage rate that would apply to a $100, 14-day loan which required payment of no more than $36 in interest, fees, and finance charges. For all purposes herein, "interest, fees, and finance charges" exclude returned check fees, late charges, and collection costs and fees, and exclude other fees as may be provided by law; and

    e. "repeatedly violates" means a lender's commission of violations with respect to loans requested or taken by six or more customers within a six-month period, and "repeatedly makes" means loans made with six or more customers within a six-month period.

14-045

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 15, 2013

RECEIVED
AUG 15 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Barbara Swanson regarding a proposed constitutional amendment to Article IX (2014-045)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Barbara Swanson on August 14, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-045

RECEIVED

2013 AUG 14 AM 10:55

MO SEC. OF STATE

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

Subscribed and sworn to before me this _____day of _____, A.D. _____

_____
Signature of Affiant
(person obtaining signatures)

_____
Signature of Notary

Notary Public (Seal)

_____

_____
Address of Notary

_____
Address of Affiant

My commission expires _____.

14-045

Notice: The proposed amendment may, or may be construed by some persons to, change, repeal, or modify by implication the following provisions of the Missouri Constitution: Sections 5, 6 and 7 of Article I; Section 38(a) and 39 of Article III; and, Sections 2(b), 5 and 8 of Article IX.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted by adding one new section to be known as section 11 of Article IX to read as follows:

Section 11.1. This section shall be known as the "Children's Education Initiative." The purpose of the Children's Education Initiative is to assist local communities in promoting high-quality elementary and secondary education for all Missouri school children.

2. Missouri taxpayers may receive a tax credit for donations made to nonprofit Children's Education Foundations that provide funds to schools and students. Missourians may form such foundations to provide funds to improve programs in public school districts, provide scholarships for children to attend other qualified schools, or expand special education services to children with disabilities.

3. As used in this section the following terms mean:

1. "Children's Education Foundation," or "Foundation," an entity incorporated under the laws of Missouri relating to nonprofit corporations and exempt from federal income taxation that has as its primary or incidental purpose one the following: (a) financial support to any public school district for improving academic or other programs deemed essential by any public school district; (b) scholarships for children to attend any private or parochial qualified school; or, (c) financial support to special education programs provided by public school districts, or scholarships for children diagnosed with disabilities recognized under federal education law to attend a private or parochial qualified school;
2. "commissioner," the commissioner of education appointed by the state board of education;
3. "contribution," a donation of cash, stock, bonds, or other marketable securities, or real property;
4. "qualified school," any public elementary and secondary school district located in Missouri; or any private or parochial elementary or secondary school located in Missouri that does not discriminate on the basis of race, color, disability, ancestry or national origin and is accredited by a state or nationally recognized accrediting institution;
5. "state tax liability," any liability incurred by a taxpayer under the provisions of chapters 143, 147, 148, and 153, of the Missouri Revised Statutes, as amended from time to time, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions, as amended from time to time;
6. "taxpayer," an individual, firm, partner in a firm, sole proprietorship, partner in a limited or general partnership, member of a limited liability company, corporation as defined under sections 143.441 or 143.471, S corporation shareholder doing business in this state and subject to the state income tax imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or charitable organization, trust, or public or private foundation which is exempt from federal income tax and whose Missouri unrelated business taxable income would be subject to state income tax under chapter 143.

4. A taxpayer may claim a credit against the taxpayer's state tax liability in an amount equal to fifty percent of such taxpayer's contribution to a Foundation. The credit shall not be allowed if the taxpayer designates the contribution for the direct benefit of the taxpayer or any dependent. The credit claimed shall not exceed the taxpayer's state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not be allowed to claim a credit in excess of fifty thousand dollars per taxable year. However, any credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed. The cumulative amount of credits that may be claimed annually shall be capped at $90 million, adjusted annually for inflation using the United States Chained Consumer Price Index (C-CPI-U). The cap may be increased upon authorization of the Missouri General Assembly.

5. A Foundation may provide financial assistance to more than one qualified school or for more than one purpose under subsection 3.1. Foundations providing assistance for multiple purposes shall request tax credit allocations for each purpose, market the credits as separate programs, and segregate the funds of each program. Foundations may decline contributions or may accept donations for which the tax credit authorized in this section is not claimed.

6. The commissioner shall annually allocate credits among the purposes in subsection 3.1 as follows: fifty percent for subsection 3.1 (a); forty percent for subsection 3.1 (b); and ten percent for subsection 3.1 (c). The commissioner shall apportion credits among Foundations throughout a calendar year based on demand, so that to the maximum extent possible, all available credits are distributed for a given year.

7. A public school district is not obligated to accept assistance from a Foundation. A Foundation that wishes to assist a public school district shall consult with the public school district and provide assistance as directed by the district. Revenues received by a public school district pursuant to this section shall not be counted as revenues received by the district in determining state aid to the district.

8. The provisions of this section shall be construed to repeal any previously enacted constitutional provisions to the extent they could be construed as prohibiting or limiting the award of tax credits for taxpayers' voluntary support or aid of students to attend elementary or secondary schools other than those defined as free public schools under article IX, section 1 (a) of the constitution. The provisions of this section are self-executing.

14-047

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 26, 2013

RECEIVED
AUG 26 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from John Elliott regarding a proposed constitutional amendment to Article V, version 1 (2014-047)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by John Elliott on August 23, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14047

RECEIVED

2013 AUG 23 AM 9:56

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

Subscribed and sworn to before me this _____day of _____, A.D. _____

_____
Signature of Affiant
(person obtaining signatures)

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

_____
Address of Affiant

My commission expires _____.

14-047

NOTICE: You are advised that in addition to the express amendments, repeals, and modifications as set forth below, this proposal may repeal, change or modify by implication, or may be construed by some persons to repeal, change or modify by implication, Article IV, Section 4, and Article V, Sections 8, 20, 25(c)(1), 25(c)(2), 25(d), and 25(g) of the Constitution of Missouri.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To amend Sections 2, 19, 25(a), and 25(f), and enact Section 1(a), 25(c)(3), 25(c)(4), 25(c)(5), and 25(c)(6) of Article V of the Constitution of Missouri to read as follows:

Section 1(a). 1. Judges of the supreme court and court of appeals shall be elected.

2. The election of judges derives from the principle that all political power is vested in and derived from the people, and all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole, and further, that all courts of justice shall be open to every person without sale, denial, or delay. Judges shall therefore be accountable to the citizens of this state, this constitution, and the United States Constitution, and not beholden to any particular alliance of lawyers, judges, or interest groups. To accomplish this purpose, as set forth in sections 25(a) through (g), judges of the supreme court and court of appeals shall henceforth stand for election, and shall no longer be selected by the governor from nominations made by commissions of lawyers, judges, and the governor's chosen appointees. Voters in most circuits shall continue to have the ability to choose the method by which circuit and associate circuit judges are selected. Sections 25(a) through (g) shall be known as the "Missouri Judicial Fairness and Accountability Plan."

Section 2. The supreme court shall be the highest court in the state. Its jurisdiction shall be coextensive with the state. Its decisions shall be controlling in all other courts. It shall be composed of [seven] nine judges, who shall hold their sessions in Jefferson City at times fixed by the court.

Section 19. Judges of the supreme court and of the court of appeals shall be selected for terms of [twelve] eight years, judges of the circuit courts for terms of six years, and associate circuit judges for terms of four years.

Section 25(a). Whenever a vacancy shall occur in the office of [judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of] circuit or associate circuit judge within the city of St. Louis and Jackson County, the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy. Whenever a vacancy shall occur in the office of judge of the supreme court or court of appeals, it shall be filled at the next general election, and any judge so elected shall serve beginning January first for the remainder of the unexpired term, or, if the original term will have expired on the December thirty-first immediately following the election, for a new term. If the vacancy occurs in a general election year at such time that it is impossible to observe the laws providing for party and independent nominations, then the vacancy shall be promptly filled under article 4, section 4 of this constitution and such appointee shall hold the office until December thirty-first immediately after the next general election at which the primary and nomination process can occur, at which election the remainder of the unexpired term shall be filled beginning January first, or, if the term will have expired on the December thirty-first immediately following the election, a judge shall be elected for a new term.

Section 25(c)(3). Judges of the court of appeals and supreme court shall be elected at the general election by the voters eligible to vote within the appellate district of the seat being elected as set forth in sections 25(c)(4) and 25(c)(5). Except as set forth in section 25(a), they shall hold office for a term expiring December thirty-first in the eighth year after their election. The provisions of sections 25(c)(1) and 25(c)(2) shall not apply to court of appeals or supreme court judges.

Section 25(c)(4). Supreme court judges shall be elected as follows. If the general assembly has provided by law for three appellate districts, three supreme court judges shall be elected from each court of appeals district by the voters eligible to vote within that district, but if fewer or greater than three court of appeals districts are established or the geographical boundaries of the districts change such that the following divisions cannot be made, then districts shall be as established by law, or if no law timely establishes districts, elections for all supreme court seats shall be at large. Seats E1, E2, and E3 shall be elected from the court of appeals district which includes the City of St. Louis. Seats S1, S2, and S3 shall be elected from the court of appeals district which includes the City of Springfield. Seats W1, W2, and W3 shall be elected from the court of appeals district which includes the City of Kansas City. Seats E1, S1, and W1 shall be known as "Class 1" and elected in 2016 and every eighth successive year. Seats and E2, S2, and W2 shall be known as "Class 2" and elected in 2018 and every eighth successive year. Seats E3, S3, and W3 shall be known as "Class 3" and elected in 2020 and every eighth successive year. Supreme court judges shall be residents of the appellate district from which they are elected no later than the day of their election.

14-047

Section 25(c)(5). The following transition provisions shall apply. 1. Those supreme court judges holding office as of 9:00 a.m. on December 5, 2014, shall not be required to reside in any particular appellate district but on that date shall nonetheless be assigned the following seat designations for purposes of implementing elections and filling vacancies. The seat designations shall be assigned beginning with Class 3, following with Class 2, and ending if necessary with Seat W1 of Class 1, and within each class, beginning with Seat W, followed by Seat S, and ending with Seat E. The seat designations will be assigned to judges holding office on December 5, 2014, using the following criteria. First, beginning with Seat W3, seats will be assigned to judges who have been retained by the voters, and of those, beginning with the judge most recently retained. For judges retained at the same time, the judge having served the least amount of time on the supreme court shall take precedence. After all judges who have been retained have been assigned seats, judges who have been appointed shall be assigned, with judges most recently appointed to take precedence. If all judges who have been retained or appointed have been assigned seats, and it appears that one or more supreme court seats was vacated before December 5, 2014 but remained unfilled by 9:00 a.m. on December 5, 2014, these vacancies will be immediately assigned a class and seat, using the order set forth in this section until all seats through Seat W1 are filled, and in assigning seat designations to vacancies, vacancies created by a judge whose last name is first in alphabetical order will have precedence. A seat held by any judge who lost a retention election in the 2014 general election shall be treated as vacant solely for purposes of assigning a class and seat under this transition provision, even though the judge shall hold office until December 31, 2014, and the seat shall be treated as vacant for purposes of section 25(a) on January 1, 2015, and thereafter filled under the provisions of that section. Seats E1 and S1 shall be filled by election in 2016 and until those judges take office, the court shall consist of seven members.

2. Court of appeals judges who were last retained in the 2004 or 2006 general elections, or the successors to vacancies left by such judges, shall stand in the 2016 general election, court of appeals judges who were last retained in the 2008 or 2010 general elections, or the successors to vacancies left by such judges, shall stand in the 2018 general election, and court of appeals judges who were last retained in the 2012 or 2014 general elections, or the successors to vacancies left by such judges, shall stand in the 2020 general election. The candidate elected in each such election shall serve for the term prescribed by section 19, and every succeeding eight years, a new election shall be held for that judicial office. Court of appeals judges first eligible for retention in the 2016 general election under the immediately prior version of section 25(c)(1), which was effective until the close of December 4, 2014, shall stand for election in the 2016 general election. Any seat held by a court of appeals judge who loses a retention election in the 2014 general election shall be treated as vacant on January 1, 2015, and shall thereafter be filled under the provisions of section 25(a).

3. A supreme court or court of appeals vacancy that opened before December 5, 2014 but that was not yet filled as of 9:00 a.m. that day shall not be filled by the appointment of the governor or Appellate Judicial Commission, but shall instead be filled by special election in 2016 under the provisions of section 25(a).

4. The transition provisions of this section 25(c)(5) shall be severable from the remainder of section 25(a) through (g).

Section 25(c)(6). 1. Elections for the offices of judge of the supreme court and court of appeals shall be partisan elections.

2. All declarations for candidacy for the offices of judge of the supreme court and court of appeals shall be filed in the office of the secretary of state.

3. Political parties shall nominate party candidates for supreme court or court of appeals judge using the same procedures the laws provide for candidates for governor. Additionally, groups of voters may nominate independent candidates, and the Appellate Judicial Commission may nominate one person who is not a sitting judge and who is not and does not become the candidate of any political party in the primary or general election. The person so nominated by a group of voters or the Appellate Judicial Commission may qualify as an independent candidate in the general election using the same procedures the laws provide for candidates for governor, except that the nominating petition must be signed by at least thirty thousand registered voters in the appellate district, or two percent of the voters who voted in the appellate district in the last election for governor, whichever is less. Notwithstanding the provisions of section 25(d), the governor shall have no power to appoint to any judicial office any person selected by the Appellate Judicial Commission.

4. Unless otherwise provided by law, primary and general elections for the offices of judge of the supreme court and court of appeals shall be held in the same manner as elections for governor. Contests to the results of an election under this section, whether on the basis of qualification, irregularity, or other cause, or for recount other than any automatic recount as may be provided by law, shall be heard and determined in the same manner as contested elections for governor unless otherwise provided by law.

5. The provisions of this section 25(c)(6) shall be severable from the remainder of section 25(a) through (g).

Section 25(f). No judge of any court in this state, appointed or elected to or retained in office in the manner prescribed in sections 25(a)-(g), shall directly or indirectly make any contribution to or hold any office in a political party or organization, or take part in any political campaign. A judge or judicial candidate may announce his or her views on disputed legal or political issues provided that the judge or judicial candidate does not make pledges or promises to render specific rulings or decisions on pending litigation. Judicial candidates and judges who are judicial candidates shall be allowed to solicit, receive and make campaign contributions, and make and receive the benefit of campaign expenditures for their own campaigns as may be provided by law. Nothing herein shall preclude the application of laws or rules of the supreme court governing judicial participation in specific cases based on a judge's political activity with respect to the subject matter or parties. The provisions of this section 25(f) shall be severable from the remainder of section 25(a) through (g), except that nothing shall prohibit a candidate for the supreme court or court of appeals from making or accepting contributions to or taking part in his or her own political campaign.

14-048

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 26, 2013

RECEIVED
AUG 26 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from John Elliott regarding a proposed constitutional amendment to Article V, version 2 (2014-048)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by John Elliott on August 23, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-048

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2013 AUG 23 AM 9:56

SEC OF STATE

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE TO BE PLACED HERE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

Name (signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CON. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Subscribed and sworn to before me this _____ day of _____, A.D. _____

_____
Signature of Affiant
(person obtaining signatures)

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

_____
Address of Affiant

My commission expires _____.

14-048

NOTICE: You are advised that in addition to the express amendments, repeals, and modifications as set forth below, this proposal may repeal, change or modify by implication, or may be construed by some persons to repeal, change or modify by implication, Article IV, section 4, and Article V, Sections 8, 20, 25(c)(1), 25(c)(2), 25(d), and 25(g) of the Constitution of Missouri.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To amend Sections 2, 19, 25(a), and 25(f), and enact Section 1(a), 25(c)(3), 25(c)(4), 25(c)(5), and 25(c)(6) of Article V of the Constitution of Missouri to read as follows:

Section 1(a). 1. Judges of the supreme court and court of appeals shall be elected.

2. The election of judges derives from the principle that all political power is vested in and derived from the people, and all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole, and further, that all courts of justice shall be open to every person without sale, denial, or delay. Judges shall therefore be accountable to the citizens of this state, this constitution, and the United States Constitution, and not beholden to any particular alliance of lawyers, judges, or interest groups. To accomplish this purpose, as set forth in sections 25(a) through (g), judges of the supreme court and court of appeals shall henceforth stand for election, and shall no longer be selected by the governor from nominations made by commissions of lawyers, judges, and the governor's chosen appointees. Voters in most circuits shall continue to have the ability to choose the method by which circuit and associate circuit judges are selected. Sections 25(a) through (g) shall be known as the "Missouri Judicial Fairness and Accountability Plan."

Section 2. The supreme court shall be the highest court in the state. Its jurisdiction shall be coextensive with the state. Its decisions shall be controlling in all other courts. It shall be composed of [seven] nine judges, who shall hold their sessions in Jefferson City at times fixed by the court.

Section 19. Judges of the supreme court and of the court of appeals shall be selected for terms of [twelve] eight years, judges of the circuit courts for terms of six years, and associate circuit judges for terms of four years.

Section 25(a). Whenever a vacancy shall occur in the office of [judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of] circuit or associate circuit judge within the city of St. Louis and Jackson County, the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy. Whenever a vacancy shall occur in the office of judge of the supreme court or court of appeals, it shall be filled at the next general election, and any judge so elected shall serve beginning January first for the remainder of the unexpired term, or, if the original term will have expired on the December thirty-first immediately following the election, for a new term. If the vacancy occurs in a general election year at such time that it is impossible to observe the laws providing for party and independent nominations, then the vacancy shall be promptly filled under article 4, section 4 of this constitution and such appointee shall hold the office until December thirty-first immediately after the next general election at which the primary and nomination process can occur, at which election the remainder of the unexpired term shall be filled beginning January first, or, if the term will have expired on the December thirty-first immediately following the election, a judge shall be elected for a new term.

Section 25 (c)(3). Judges of the court of appeals shall be elected at the general election by the voters eligible to vote within the appellate district of the judicial office being elected, and judges of the supreme court shall be elected at the general election by the voters eligible to vote, as set forth in sections 25(c)(4) and 25(c)(5). Except as set forth in section 25(a), they shall hold office for a term expiring December thirty-first in the eighth year after their election. The provisions of sections 25(c)(1) and 25(c)(2) shall not apply to court of appeals or supreme court judges.

Section 25(c)(4). Supreme court judges shall be elected as follows. If the general assembly has established by law eight congressional districts, one supreme court judge who shall be a resident of that district on the day of his or her election shall be elected from each congressional district by the voters eligible to vote within that district, and notwithstanding section 8, one supreme court judge shall be elected at large. If nine congressional districts have been established by law, then one supreme court judge shall be elected from each district and the chief judge shall be elected from among the judges as set forth in section 8. If fewer than eight or more than nine congressional districts are established, then districts for the election of supreme court judges shall be as established by law, or if no law timely establishes supreme court or congressional districts, elections for all seats shall be elected at large. If supreme court judges are elected from congressional districts, then judges shall hold numbered seats to match the numbers assigned to the congressional districts from which they are elected, beginning with 1 and ending with either 8 or 9. If there are eight congressional seats: Seat 9 shall be the seat of the chief judge, to be elected at large; Seats 1, 8, and 9 shall be elected in 2016 and every eighth successive year; Seats 2, 3, and 4 shall be elected in 2018 and every eighth successive year; and Seats 5, 6, and 7 shall be elected in 2020 and every eighth successive year. If and for so long as there are nine congressional seats, Seat 9 shall be elected by the voters of the ninth congressional district in 2024 and every eighth successive year.

Section 25 (c)(5). The following transition provisions shall apply. 1. Those supreme court judges holding office as of 9:00 a.m. on December 5, 2014, shall not be required to reside in any particular congressional district but on that date shall nonetheless be assigned the following seat designations for purposes of implementing elections and filling vacancies. The seats shall be assigned in the following order: 7, 6, 5, 4, 3, 2, 1. The seats will be assigned to judges holding office on December 5, 2014, using the following criteria. First, beginning with Seat 7, seats will be assigned to judges who have been retained by the voters, and of those, beginning with the judge most recently retained. For judges retained at the same time, the judge having served the least amount of time on the supreme court shall take precedence. After all judges who have been retained have been assigned seats, judges who have been appointed shall be assigned, with judges most recently appointed to take precedence. If all judges who have been retained or appointed have been assigned seats, and it appears that one or more supreme court seats was vacated before December 5, 2014 but remained unfilled by 9:00 a.m. on December 5, 2014, these vacancies will be immediately assigned a seat, using the order set forth in this section until all seats between 7 and 1 are filled, and in assigning seat designations to vacancies, vacancies created by a judge whose last name was first in alphabetical order will have precedence. A seat held by any judge who lost a retention election in the 2014 general election shall be treated as vacant solely for purposes of assigning a seat under this transition provision, even though the judge shall hold office until December 31, 2014, and the seat shall be treated as vacant for purposes of section 25(a) on January 1, 2015, and thereafter filled under the provisions of that section. Seats 8 and 9 shall be filled by election in 2016 and until those judges take office, the court shall consist of seven members.

2. Court of appeals judges who were last retained in the 2004 or 2006 general elections, or the successors to vacancies left by such judges, shall stand in the 2016 general election, court of appeals judges who were last retained in the 2008 or 2010 general elections, or the successors to vacancies left by such judges, shall stand in the 2018 general election, and court of appeals judges who were last retained in the 2012 or 2014 general elections, or the successors to vacancies left by such judges, shall stand in the 2020 general election. The candidate elected in each such election shall serve for the term prescribed by section 19, and every succeeding eight years, a new election shall be held for that judicial office. Court of appeals judges first eligible for retention in the 2016 general election under the immediately prior version of section 25(c)(1), which was effective until the close of December 4, 2014, shall stand for election in the 2016 general election. Any seat held by a court of appeals judge who loses a retention election in the 2014 general election shall be treated as vacant on January 1, 2015, and shall thereafter be filled under the provisions of section 25(a).

3. A supreme court or court of appeals vacancy that opened before December 5, 2014 but that was not yet filled as of 9:00 a.m. that day shall not be filled by the appointment of the governor or Appellate Judicial Commission, but shall instead be filled by special election in 2016 under the provisions of section 25(a).

4. The transition provisions of this section 25(c)(5) shall be severable from the remainder of section 25(a) through (g).

Section 25(c)(6). 1. Elections for the offices of judge of the supreme court and court of appeals shall be partisan elections conducted as follows.

2. All declarations for candidacy for the offices of judge of the supreme court and court of appeals shall be filed in the office of the secretary of state.

3. Political parties shall nominate party candidates for supreme court or court of appeals judge using the same procedures the laws provide for candidates for governor. Additionally, groups of voters may nominate independent candidates, and the Appellate Judicial Commission may nominate one person who is not a sitting judge and who is not and does not become the candidate of any political party in the primary or general election. The person so nominated by a group of voters or the Appellate Judicial Commission may qualify as an independent candidate in the general election using the same procedures the laws provide for candidates for governor, except that the nominating petition must be signed by at least thirty thousand registered voters in the applicable appellate or congressional district, or two percent of the voters who voted in the applicable appellate or congressional district in the last election for governor, whichever is less, or in the case of an election for chief judge, the petition shall be signed by at least fifty thousand registered voters. Notwithstanding the provisions of section 25(d), the governor shall have no power to appoint to any judicial office any person selected by the Appellate Judicial Commission.

4. Unless otherwise provided by law, primary and general elections for the offices of judge of the supreme court and court of appeals shall be held in the same manner as elections for governor. Contests to the results of an election under this section, whether on the basis of qualification, irregularity, or other cause, or for recount other than any automatic recount as may be provided by law, shall be heard and determined in the same manner as contested elections for governor unless otherwise provided by law.

5. The provisions of this section 25(c)(6) shall be severable from the remainder of section 25(a) through (g).

Section 25(f). No judge of any court in this state, appointed or elected to or retained in office in the manner prescribed in sections 25(a)-(g), shall directly or indirectly make any contribution to or hold any office in a political party or organization, or take part in any political campaign. Notwithstanding the foregoing, a judge or judicial candidate may announce his or her views on disputed legal or political issues provided that the judge or judicial candidate does not make pledges or promises to render specific rulings or decisions on pending litigation. Judicial candidates and judges who are judicial candidates shall be allowed to solicit, receive and make campaign contributions, and make and receive the benefit of campaign expenditures, for their own campaigns as may be provided by law. Nothing herein shall preclude the application of laws or rules of the supreme court governing judicial participation in specific cases based on a judge's political activity with respect to the subject matter or parties. The provisions of this section 25(f) shall be severable from the remainder of section 25(a) through (g), except that nothing shall prohibit a candidate for the supreme court or court of appeals from making or accepting contributions to or taking part in his or her own political campaign.

14-048

14-051

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 26, 2013

RECEIVED
SEP 2 6 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed amendment to the Revised Statutes of Missouri, version 2 (2014-051)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Bradley Ketcher on September 25, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-051

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 SEP 25 PM 2:41
JASON KANDER
SEC OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street)	(City, Town or Village)	Zip Code	Congr. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____
_____

Notary Public (Seal)

My commission expires _____

14-051

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2013 SEP 25 PM 2:42

MO SEC. OF STATE

Be it enacted by the people of the state of Missouri:

Section A. Sections 172.030, 172.035, 172.037, 172.040, 172.060, 174.050, 174.055, 174.070, 174.300, 174.332, 174.450, 174.453, 174.610, 174.620, 174.621, 175.020, 175.021, 175.023, 175.030, 178.632, 178.633 are amended to read as follows:

172.030. 1. The board of curators of the University of the state of Missouri shall hereafter consist of nine members, who shall be appointed by the governor, by and with the advice and consent of the senate; provided, that at least one but no more than two shall be appointed upon said board from each congressional district, and no person shall be appointed a curator who shall not be a citizen of the United States, and who shall not have been a resident of the state of Missouri two years next prior to his appointment, except for the nonpartisan student curator, who shall be subject to the requirements of section 172.035. Not more than five curators shall belong to any one political party. Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011, from completing his or her term.

2. One member of the board shall be a nonpartisan student curator who shall have the right to vote on the setting of tuition and fees and any other matter before the board. The nonpartisan student curator may be from any congressional district, and his or her congressional district may be the same as another member of the board. The first nonpartisan student curator shall be appointed by January 31, 2015. The nonpartisan student curator shall serve a two-year term provided the person maintains the status of a full-time student. The first nonpartisan student curator appointed under this subsection shall replace the non-voting student representative previously appointed under 172.035, who shall serve until such replacement. The nonpartisan student curator shall be appointed in the manner prescribed in section 172.035, and he or she shall meet all other requirements of section 172.035.

172.035. 1. The governor shall, by and with the advice and consent of the senate, appoint a nonpartisan student [representative] curator to the board of curators of the University of Missouri, who shall attend all meetings and participate in all deliberations of the board. [Such student representative shall not have the right to vote on any matter before the board.]

2. Such nonpartisan student [representative] curator shall be a full-time student at the university as defined by the board, selected from a panel of three names submitted to the governor by the student government presidents of the campuses of the university, a citizen of the United States, and a resident of the state of Missouri. No person may be appointed who is not actually enrolled during the term of such person's appointment as a student at the University of Missouri.

3. The term of the nonpartisan student [representative] curator shall be two years, except that the person first appointed shall serve until January 1, [1986] 2016 and attend the campus of the previous non-voting student representative.

4. If a vacancy occurs for any reason in the position of nonpartisan student [representative] curator, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until the nonpartisan student [representative's] curator's successor is appointed and qualified.

5. If the nonpartisan student [representative] curator ceases to be a student at the University of Missouri, or a resident of the state of Missouri, or fails to follow the board's attendance policy, the nonpartisan student [representative's] curator's position shall at once become vacant, unless such absence is caused by sickness or some accident preventing such [representative's] nonpartisan student curator's arrival at the time and place appointed for the meeting.

6. The nonpartisan student [representative] curator shall receive the same reimbursement for expenses as other members of the board of curators receive pursuant to section 172.040.

7. Appointments made under this section shall be made in rotation from each of the four campuses of the University of Missouri, beginning with a student from the Columbia campus, next from the Rolla campus, next from the Kansas City campus, and then from the St. Louis

14-051

campus. If, after the effective date of this act, the university adds another campus or campuses, then such campus or campuses shall be inserted into the aforementioned rotation following the St. Louis campus in the order in which such campus or campuses are admitted into the university.

8. Unless alternative arrangements for payment have been made and agreed to by the student and the university, the nonpartisan student curator [representative] shall have paid all student and tuition fees due prior to such appointment and shall pay all future student and tuition fees during the term of office when such fees are due.

172.037. 1. For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Before January 1, 2015, upon a unanimous affirmative vote of the members of the board who are present and who are not student representatives, a given meeting closed pursuant to sections 610.021 and 610.022 shall be closed to the student representative. This subsection shall expire on January 1, 2015.

172.040. Except as provided in subsection 2 of section 172.030 for nonpartisan student curators, the term of service of the curators shall be six years, the terms of three expiring every two years; the first expiration occurring on the first day of January, 1911, and succeeding expirations of three members every two years thereafter. Said curators, while attending the meetings of the board, shall receive their actual expenses, which shall be paid out of the ordinary revenues of the university.

172.060. Except as provided in subsection 2 of section 172.030 for nonpartisan student curators, all appointments to fill vacancies, except such as may be made to fill out unexpired terms, shall be for the term of six years, and until the successors of such appointees shall be appointed and qualified.

174.050. The board of regents for each college shall be composed of seven regular members[,] and one nonpartisan student member. Six [of whom] regular members shall reside in the district in which the college for which they are appointed regents is situated, and at least one member of each board shall be a resident of the county in which the college for such district is located. The state commissioner of education shall be an ex officio member of each of said boards.

174.055. 1. The governor shall, by and with the advice and consent of the senate, appoint a nonpartisan student [representative] member to the board of regents or governors of each educational institution referred to in section 174.020 who shall attend all meetings and participate in all deliberations of the board. Such nonpartisan student [representative] member shall [not] have the right to vote on the setting of tuition and fees and any matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The nonpartisan student member shall serve a two-year term provided the person maintains the status of a full-time student. The first nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement.

2. Such nonpartisan student [representative] member shall be a full-time student at the institution as defined by the board, selected from a panel of three names submitted to the governor by the student government president, a citizen of the United States, and a resident of the state of Missouri. No person may be appointed who is not actually enrolled during the term of such person's appointment as a student at the institution.

3. The term of the nonpartisan student [representative] member shall be two years[, except that the person first appointed shall serve until January 1, 1986].

4. If a vacancy occurs for any reason in the position of nonpartisan student [representative] member, the governor shall appoint a replacement who meets the qualifications set forth in

subsection 2 of this section and who shall serve until such [representative's] member's successor is appointed and qualified.

5. If the nonpartisan student [representative] member ceases to be a student at the institution, or a resident of the state of Missouri, or fails to follow the board's attendance policy, the nonpartisan student [representative's] member's position shall at once become vacant, unless the nonpartisan student [representative's] member's absence is caused by sickness or some accident preventing the nonpartisan student [representative's] member's arrival at the time and place appointed for the meeting.

6. The nonpartisan student [representative] member shall receive the same reimbursement for expenses as other members of the board of regents receive pursuant to section 174.100.

7. Unless alternative arrangements for payment have been made and agreed to by the student and the educational institution, the nonpartisan student [representative] member shall have paid all student and tuition fees due prior to such appointment and shall pay all future student and tuition fees during the term of office when such fees are due.

174.070. Except for the nonpartisan student member appointed pursuant to 174.055, the regents shall hold their offices for the term of six years from the first day of January next prior to their confirmation, and until their successors are duly appointed and qualified, except such as may be appointed to fill a vacancy, who shall hold office for the unexpired term.

174.300. 1. Prior to October 17, 1978, the governor shall, with the advice and consent of the senate, appoint a six-member board of regents to assume the general control and management of Harris-Stowe College. The members of the board shall serve for terms of six years each, except for the members first appointed, two of whom shall serve two-year terms, two of whom shall serve four-year terms, and two of whom shall serve six-year terms. Not more than three of the regents shall be affiliated with any one political party.

2. On and after August 28, 2005, Harris-Stowe State College shall be known as Harris-Stowe State University, and the provisions contained in subsection 1 of this section shall continue to apply to the institution.

3. Notwithstanding the provisions of subsection 1 of this section, after January 1, 2015, the board of regents of Harris-Stowe State University shall include a seventh member who shall be a nonpartisan student member appointed under the procedures of 174.055. The nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The nonpartisan student member shall serve a two-year term provided the person maintains the status of a full-time student. The first nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement.

174.332. 1. Notwithstanding the provisions of section 174.050 to the contrary, the board of regents of Northwest Missouri State University shall be composed of nine members, eight of whom shall be regular [voting] members and one who shall be a [nonvoting] nonpartisan student member. Not more than four regular [voting] members shall belong to any one political party. Not more than two regular [voting] members shall be residents of the same county. The appointed members of the board serving on August 28, 2008, shall continue to serve until the expiration of the terms for which the appointed members were appointed and until such time a successor is duly appointed.

2. The board of regents shall be appointed as follows:

(1) Six [voting] regular members shall be residents of the university's historic statutory service region, as described in section 174.010 and modified by section 174.250, provided at least one regular member shall be a resident of Nodaway County;

(2) Two [voting] regular members shall be residents of a county in the state that is outside the university's historic statutory service region, as described in section 174.010 and modified by

14-051

section 174.250, provided these two regular members shall not be appointed from the same congressional district; and

(3) One [nonvoting] nonpartisan student member shall be a full-time student of the university, a United States citizen, and a resident of Missouri. The nonpartisan student member shall be appointed under the procedures of 174.055. The nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The nonpartisan student member shall serve a two-year term provided the person maintains the status of a full-time student. The first nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement.

3. A majority of the [voting] members of the board shall constitute a quorum for the transaction of business; however, no appropriation of money nor any contract that shall require any appropriation or disbursement of money shall be made, nor teacher employed or dismissed, unless a majority of the [voting] members of the board vote for the same.

4. Except as specifically provided in this section, the appointments and terms of office for the [voting and nonvoting] members of the board, and all other duties and responsibilities of the board, shall comply with the provisions of state law regarding boards of regents.

174.450. 1. Except as provided in subsection 2 and subsection 6 of this section, the governing board of the University of Central Missouri, Missouri State University, Missouri Southern State University, Missouri Western State University, and of each other public institution of higher education which, through the procedures established in subdivision (7) or (8) of section 173.030, is charged with a statewide mission shall be a board of governors consisting of eight members, composed of seven [voting] regular members and one [nonvoting] nonpartisan student member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. The nonpartisan student member shall be a full-time student of the university, a United States citizen, and a resident of Missouri. The nonpartisan student member shall be appointed under the procedures of 174.055. The nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The nonpartisan student member shall serve a two-year term provided the person maintains the status of a full-time student. The nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement. No person shall be appointed a [voting] regular member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four [voting] regular members shall belong to any one political party. The appointed members of the board of regents serving on the date of the statutory mission change shall become members of the board of governors on the effective date of the statutory mission change and serve until the expiration of the terms for which they were appointed. The board of regents of any such institution shall be abolished on the effective date of the statutory mission change, as prescribed in subdivision (7) or (8) of section 173.030.

2. The governing board of Missouri State University, a public institution of higher education charged with a statewide mission in public affairs, shall be a board of governors of ten members, composed of nine [voting] regular members and one [nonvoting] nonpartisan student member, who shall be appointed by the governor, by and with the advice and consent of the senate. The nonpartisan student member shall be a full-time student of the university, a United States citizen, and a resident of Missouri. The nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The nonpartisan student member shall serve a two-year term provided the person maintains the status of a full-time student. The first nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement. The [nonvoting] nonpartisan student member shall be a student selected in the same manner as prescribed in section 174.055. At least one but no more than two [voting] regular members shall be appointed to the board from each congressional district, and every member of the board shall be a citizen of the United States, and a resident of this state for at least two years prior to his or her appointment. No more than five

[voting] regular members shall belong to any one political party. The term of office of the regular governors shall be six years, except as provided in this subsection. The term of office for those appointed hereafter shall end January first in years ending in an odd number. For the six [voting] regular members' terms that expired in 2011, the successors shall be appointed in the following manner:

(1) Of the five [voting] regular members' terms that expired on August 28, 2011, one successor member shall be appointed, or the existing member shall be reappointed, to a term that shall expire on January 1, 2013;

(2) Of the five [voting] regular members' terms that expired on August 28, 2011, two successor members shall be appointed, or the existing members shall be reappointed, to terms that shall expire on January 1, 2015;

(3) Of the five [voting] regular members' terms that expired on August 28, 2011, two successor members shall be appointed, or the existing members shall be reappointed, to a term that shall expire on January 1, 2017; and

(4) For the [voting] regular member's term that expired on January 1, 2011, the successor member shall be appointed, or the existing member shall be reappointed, to a term that shall expire on January 1, 2017.

Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011, from completing his or her term.

3. If a [voting] regular member of the board of governors of Missouri State University is found by unanimous vote of the other governors to have moved such governor's residence from the district from which such governor was appointed, then the office of such governor shall be forfeited and considered vacant.

4. Should the total number of Missouri congressional districts be altered, all regular members of the board of governors of Missouri State University shall be allowed to serve the remainder of the term for which they were appointed.

5. Should the boundaries of any congressional districts be altered in a manner that displaces a regular member of the board of governors of Missouri State University from the congressional district from which the member was appointed, the member shall be allowed to serve the remainder of the term for which the member was appointed.

6. The governing board of Missouri Southern State University shall be a board of governors consisting of nine members, composed of eight [voting] regular members and one [nonvoting] nonpartisan student member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a [voting] regular member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four [voting] regular members shall belong to any one political party. The nonpartisan student member shall be a full-time student of the university, a United States citizen, and a resident of Missouri. The nonpartisan student member shall be appointed under the procedures of 174.055. The nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The nonpartisan student member shall serve a two-year term provided the person maintains the status of a full-time student. The first nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement.

174.453. 1. Except as provided in section 174.450, the board of governors shall be appointed as follows:

(1) Five [voting] regular members shall be selected from the counties comprising the institution's historic statutory service region as described in section 174.010, except that no more than two

members shall be appointed from any one county with a population of less than two hundred thousand inhabitants;

(2) Two [voting] regular members shall be selected from any of the counties in the state which are outside of the institution's historic service region; and

(3) One [nonvoting] nonpartisan member who is a student shall be selected in the same manner as prescribed in section 174.055.

2. The term of service of the governors shall be as follows:

(1) The [voting] regular members shall be appointed for terms of six years; and

(2) The [nonvoting] nonpartisan student member shall serve a two-year term.

3. Members of any board of governors selected pursuant to this section and in office on May 13, 1999, shall serve the remainder of their unexpired terms.

4. Notwithstanding the provisions of subsection 1 of this section, the board of governors of Missouri Southern State University shall be appointed as follows:

(1) Six [voting] regular members shall be selected from any of the following counties: Barton, Jasper, Newton, McDonald, Dade, Lawrence, and Barry provided that no more than three of these six members shall be appointed from any one county;

(2) Two [voting] regular members shall be selected from any of the counties in the state which are outside of the counties articulated in subdivision (1) of this subsection;

(3) One [nonvoting] nonpartisan member who is a student shall be selected in the same manner as prescribed in section 174.055; and

(4) The provisions of subdivisions (1) and (2) of this subsection shall only apply to board members first appointed after August 28, 2004.

5. Notwithstanding the provisions of subsection 1 of this section, the board of governors of Missouri Western State University shall be appointed as follows:

(1) Five [voting] regular members shall be selected from any of the following counties: Buchanan, Platte, Clinton, Andrew, and DeKalb provided that no more than three of these five regular members shall be appointed from any one county;

(2) Two [voting] regular members shall be selected from any of the counties in the state which are outside of the counties articulated in subdivision (1) of this subsection;

(3) One [nonvoting] nonpartisan member who is a student shall be selected in the same manner as prescribed in section 174.055. The nonpartisan student member shall be a full-time student of the university, a United States citizen, and a resident of Missouri. The nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The nonpartisan student member shall serve a two-year term provided the person maintains the status of a full-time student. The first nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement; and

(4) The provisions of subdivisions (1) and (2) of this subsection shall only apply to board members first appointed after August 28, 2005.

174.610. The governing board of the Truman State University shall be a board of governors consisting of ten members, composed of seven regular voting members, one nonpartisan voting student member and [three] two nonvoting members as provided in section 174.620, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a regular voting governor who is not a citizen of the United States and

who has not been a resident of the state of Missouri for at least two years immediately prior to such person's appointment. Not more than four regular voting governors shall belong to any one political party. The appointed members of the board of regents serving on January 1, 1986, shall become members of the board of governors on January 1, 1986, and serve until the expiration of the terms for which they were appointed.

174.620. 1. The board of governors shall be appointed as follows:

(1) Four regular voting members from the counties of Adair, Audrain, Boone, Callaway, Chariton, Clark, Howard, Knox, Lewis, Lincoln, Linn, Marion, Macon, Monroe, Montgomery, Pike, Putnam, Ralls, Randolph, St. Charles, Schuyler, Scotland, Shelby, Sullivan, and Warren, provided that not more than one member shall be appointed from the same county;

(2) Three regular voting members from any of the seven college districts as contained in section 174.010, provided that no more than one member shall be appointed from the same congressional district;

(3) Two nonvoting members whose residence is other than the state of Missouri and who are knowledgeable of the educational mission of liberal arts institutions; and

(4) One [nonvoting] nonpartisan voting member who is a student. The nonpartisan student member shall be a full-time student of the university, a United States citizen, and a resident of Missouri. The nonpartisan student member shall be appointed under the procedures of 174.055. The nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The nonpartisan student member shall serve a two-year term provided the person maintains the status of a full-time student. The first nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement. Such nonpartisan student [representative] member shall attend all meetings and participate in all deliberations of the board. [Such student representative shall not have the right to vote on any matter before the board, but shall have all other powers and duties of section 174.055, and shall also meet the qualifications of section 174.055.]

2. The term of service of the governors shall be as follows:

(1) The regular voting members shall be appointed for terms of six years; except, that of the voting members first appointed, two shall serve for terms of two years, two for terms of four years, and three for terms of six years;

(2) The nonvoting members [who are not students] shall be appointed for terms of six years; except, that of the nonvoting members first appointed, one shall serve for a term of three years, and one shall serve a term of six years; and

(3) The [nonvoting] nonpartisan voting student member shall serve a two-year term as provided in section 174.055.

3. The governors, both voting and nonvoting, while attending the meetings of the board shall receive their actual and necessary expenses, which shall be paid out of the ordinary revenues of the university. Vacancies in terms of office caused by death, resignation or removal shall be filled in the manner provided by law for such vacancies on the board of curators of the University of Missouri.

174.621. 1. For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Before January 1, 2015, upon a unanimous affirmative vote of the members of the board who are present and who are not student representatives, a given meeting closed pursuant to sections

610.021 and 610.022 shall be closed to the student representative. This subsection shall expire on January 1, 2015.

175.020. The board of curators of Lincoln University of Missouri shall hereafter consist of nine regular members and one nonpartisan student member who shall be appointed by the governor, by and with the advice and consent of the senate. No person shall be appointed a regular curator who shall not be a citizen of the United States and who shall not have been a resident of the state of Missouri two years next prior to his or her appointment. Not more than five regular curators shall belong to any one political party.

175.021. 1. The governor shall, by and with the advice and consent of the senate, appoint a nonpartisan student member [student representative] to the board of curators of Lincoln University, who shall attend all meetings and participate in all deliberations of the board. [Such student representative shall not have the right to vote on any matter before the board.]

2. Such nonpartisan student [representative] member shall be a full-time student at the university as defined by the board, selected from a panel of three names submitted to the governor by the student government association of the university, a citizen of the United States, and a resident of the state of Missouri. No person may be appointed who is not actually enrolled during the term of his or her appointment as a student at the university. Such nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board. The first nonpartisan student member shall be appointed by January 31, 2015. The first nonpartisan student member appointed under this subsection shall replace the non-voting student representative, who shall serve until such replacement.

3. The term of the student [representative] member shall be two years[, except that the person first appointed shall serve until January 1, 1989].

4. If a vacancy occurs for any reason in the position of nonpartisan student [representative] member, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until his or her successor is appointed and qualified.

5. If the nonpartisan student [representative] member ceases to be a student at the university, or a resident of the state of Missouri, or fails to attend any regularly called meeting of the board of which the [representative] nonpartisan student member has due notice, the position shall at once become vacant, unless the absence is caused by sickness or some accident preventing the [representative's] nonpartisan student member's arrival at the time and place appointed for the meeting.

6. The nonpartisan student [representative] member shall receive the same reimbursement for expenses as other members of the board of curators receive pursuant to section 175.030.

7. Unless alternative arrangements for payment have been made and agreed to by the student and the university, the nonpartisan student [representative] member shall have paid all student and tuition fees due prior to such appointment and shall pay all future student and tuition fees during the term of office when such fees are due.

175.023. 1. For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Before January 1, 2015, upon a unanimous affirmative vote of the members of the board who are present and who are not student representatives, a given meeting closed pursuant to sections 610.021 and 610.022 shall be closed to the student representative. This subsection shall expire on January 1, 2015.

175.030. The term of service of the regular curators shall be six years, the term of three expiring every two years, the first expiration occurring on the first day of January, 1942, and succeeding

expirations of three members every two years thereafter. Said Curators while attending the meeting of the board shall receive their actual expenses which shall be paid out of the ordinary revenues of the university.

178.632. The governing board of State Technical College of Missouri shall be a board of regents composed of seven [voting] regular members and one [nonvoting] nonpartisan student member. Such members shall be appointed by the governor with the advice and consent of the senate after August 28, 1995, and after the conditions of section 178.631 are satisfied. No person shall be appointed as a regular member to the board who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to his appointment. Not less than three [voting] regular members shall belong to one of the two major political parties and not less than three shall belong to the other major political party. Not more than two [voting] regular members shall reside in Osage County or other immediately contiguous counties.

178.633. [Voting] Regular members of the board shall be appointed for terms of six years, except that of the [voting] regular members first appointed, two shall serve for two years, two for four years, and three for six years. The terms and conditions of service for [nonvoting] nonpartisan student members shall be the same as provided by law for the University of Missouri. The nonpartisan student member shall have the right to vote on the setting of tuition and fees and any other matter before the board.

14-052

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 10, 2013

RECEIVED
OCT 10 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Rodney Gray regarding a proposed constitutional amendment to Article IV, version 2 (2014-052)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Rodney Gray on October 9, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED

14-052

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

2013 OCT -9 PM 2:56

MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-052

NOTICE: You are advised that the proposed constitutional amendment changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Constitution of Missouri — Section 1 of Article II; Sections 1, 36, 49 and 50 of Article III; Sections 1, 15, 22, 23, 27, 28, 29, 30(a), 30(b), 30(c), 32 and 34 of Article IV; Sections 1, 2, 3, 4(a), 10(b), 16, 17, 18, 18(e), 19, 20 and 21 of Article X; and Sections 1 and 2(b) of Article XII.

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Section 30(d) of Article IV of the Constitution is repealed, and two new sections to be known as Article IV, Sections 30(d) and 30(e) are adopted in lieu thereof:

Section 30(d).1. No state revenues derived from highway users which are imposed, collected, apportioned, distributed or deposited in the state road fund pursuant to either section 30(a) or section 30(b) shall be diverted from the highway purposes and uses specified in subsection 1 of section 30(b). No state revenues derived from highway users which are imposed, collected, apportioned, distributed or deposited in the state road bond fund pursuant to subdivision (3) of subsection 2 of section 30(b) shall be diverted from the highway purposes and uses specified in said subdivision (3). No state revenues which are imposed, collected, apportioned, distributed or deposited into the state road fund or transportation safety and job creation fund pursuant to section 30(e) of this article shall be used for administrative purposes or diverted from the state highway system purposes and uses and the state transportation system purposes and uses specified in section 30(e) of this article. The oversight division of the committee on legislative research shall conduct a program evaluation of the department of transportation to ensure the additional funds under section 30(e) are used as required under this article and provide a report to the general assembly by January 1, 2020.

2. All of the provisions of sections 29, 30(a), 30(b), 30(c), 30(d), and 30(e) shall be self executing. All of the provisions of sections 29, 30(a), 30(b), 30(c), 30(d), and 30(e) are severable. If any provision of sections 29, 30(a), 30(b), 30(c), 30(d), and 30(e) is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of these sections shall be and remain valid.

3. The provisions of sections 30(d) and 30(e) shall become effective on January 1, 2015.

Section 30(e).1. To provide additional moneys for state highway system purposes and uses, city streets, county roads and state transportation system purposes and uses: First, an additional state sales tax of one percent is hereby levied and imposed upon all transactions on which the Missouri state sales tax is imposed, subject to the provisions of and to be collected as provided in the Sales Tax Law and the rules adopted in connection therewith; and Second, an additional state use tax of one percent is hereby levied and imposed upon all transactions on which the Missouri state use tax is imposed, subject to the provisions of and to be collected as provided in the Compensating Use Tax Law and the rules adopted in connection therewith. No tax levied or imposed under this Section 30(e) shall apply to the retail sale of food as defined in the Sales Tax Law.

2. The proceeds from the additional state sales and use taxes imposed under this section shall be collected, apportioned, distributed, and deposited by the department of revenue as provided in this section. The term "proceeds from the additional state sales and use taxes" used in this subsection shall mean and include all proceeds collected by the department of revenue reduced only by refunds for overpayments and erroneous payments of such taxes as permitted by law and the department's actual costs to collect these proceeds, which shall not exceed one percent of the total amount of the tax collected. The department's actual costs to collect these proceeds shall be limited to actual costs incurred by the department of revenue, including any other entity or person designated by law or by the department to collect or to provide goods or services used to collect the additional state sales and use taxes.

3. The proceeds from the additional state sales and use taxes imposed under this section shall be apportioned, distributed, and deposited by the director of revenue as follows:

(1) Five percent of the proceeds shall be deposited into a special trust fund known as the "County Aid Transportation Fund". Moneys in the county aid transportation fund shall be apportioned and distributed to the various counties of the state based on the county road mileage and assessed rural land valuation calculations in subdivision (1) of subsection 1 of section 30(a) of this article, except that five percent of these moneys shall be apportioned and distributed solely to cities not within any county in this state. Moneys in this fund shall be expended at the sole discretion of the various counties for any of the county road and bridge purposes and uses provided in subdivision (1) of subsection 1 of section 30(a) of this article, any state highway system purposes and uses authorized under section 30(b) of this article, or for any county transportation system purposes and uses as set forth in subdivision (4) of this subsection;

(2) Five percent of the proceeds shall be deposited into a special trust fund known as the "Municipal Aid Transportation Fund". Moneys in the municipal aid transportation fund shall be apportioned and distributed to the various incorporated cities, towns, and villages in the state based on the population ratio calculations in subdivision (2) of subsection 1 of section 30(a) of this article. Moneys in this fund shall be expended at the sole discretion of the various incorporated cities, towns, and villages for any of the city road, street and bridge purposes and uses provided in subdivision (2) of subsection 1 of section 30(a) of this article, any state highway system purposes and uses authorized under section 30(b) of this article, or for any city transportation system purposes and uses as set forth in subdivision (4) of this subsection;

(3) Ninety percent of the proceeds shall be deposited into a special trust fund known as the "Transportation Safety and Job Creation Fund", which is created within the state treasury. Moneys in the transportation safety and job creation fund shall stand appropriated without legislative action to be used and expended at the sole discretion of the highways and transportation commission for the following purposes and uses, and no other:

(a) For deposit into the state road fund for state highway system purposes and uses authorized under section 30(b) of this article; or

(b) For state transportation system purposes and uses as set forth in subdivision (4) of this subsection;

(4) The term "transportation system purposes and uses" shall include authority for the commission, any county or any city to plan, locate, relocate, establish, acquire, construct, maintain, control,

14-052

operate, develop, and fund public transportation facilities such as, but not limited to, aviation, mass transportation, transportation for elderly and handicapped persons, railroads, ports, waterborne commerce, intermodal connections, bicycle, and pedestrian improvements;

(5) All interest earned on moneys deposited into the county aid transportation fund, the municipal aid transportation fund or the transportation safety and job creation fund shall be credited to and deposited into such fund. The unexpended balance remaining in the county aid transportation fund, the municipal aid transportation fund, and the transportation safety and job creation fund at the end of the biennium and after all warrants on same have been discharged and the appropriation, if applicable, has lapsed, shall not be transferred and placed to the credit of the general revenue fund of the state or any other fund;

(6) The moneys apportioned or distributed under this section to the transportation safety and job creation fund, county aid transportation fund, and municipal aid transportation fund shall not be included within "total state revenues" under section 17 of article X of the Missouri Constitution, nor be considered an "expense of state government" under section 20 of article X of the Missouri Constitution, nor be considered "state revenue" under section 3(b) of article IX of the Missouri Constitution.

4. (1) Unless approved by the voters of this state, the general assembly, counties, and municipalities are prohibited from increasing or decreasing the tax upon or measured by motor fuel used to propel highway motor vehicles from the rate of the tax authorized by law on January 1, 2014, while this section is in effect.

(2) Unless approved by the voters of this state, the state highways and transportation commission shall not authorize, own or operate a toll highway or toll bridge on a state highway or bridge that is in existence on January 1, 2014, while the sales and use tax authorized by this section is in effect. Unless approved by the voters of the applicable county or municipality, a county or municipality shall not authorize, own or operate a toll highway or toll bridge on any highway or bridge under its jurisdiction that is in existence on January 1, 2014, while the sales and use tax authorized by this section is in effect.

(3) Prior to the effective date of this section and prior to any subsequent election in which this section shall be submitted to voters for approval, the commission shall approve its list of projects, programs, and facilities, with a priority given to safety, on the state highway system and state transportation system that shall be funded from the proceeds from the additional sales and use taxes deposited into the transportation safety and job creation fund under this section. Starting in the second calendar year following the effective date of this section, the commission shall annually submit a report to the governor, general assembly, and joint committee on transportation oversight that shall include the status of the approved list of projects, programs, and facilities on the state highway system and state transportation system. During the ten-year period the temporary tax is in effect, the commission shall include the approved projects, programs, and facilities in one or more of the five-year statewide transportation improvement programs approved by the commission. A taxpayer of the state shall have standing to bring suit to compel the commission's inclusion of approved projects in a five-year statewide transportation improvement program. All such suits shall be brought in the circuit court of Cole County.

(4) Upon voter approval of the temporary one percent state sales and use tax in this section at a general election held in 2014, this section shall be effective January 1, 2015, and shall continue for ten years. This section shall be resubmitted to the voters for approval at the general election held in 2024. The secretary of state shall submit the ballot measure for such ten-year resubmission. If approved by a simple majority of votes cast, this section shall continue to be effective for an additional temporary ten-year period. Every ten years thereafter, the secretary of state shall submit to the voters for approval the issue of whether the sales and use tax authorized by this section shall be imposed for another ten-year period. If at any subsequent general election a simple majority of votes cast do not approve such issue, then this section shall terminate on December thirty-first of the calendar year when the last election was held.

[Section 30(d). 1. No state revenues derived from highway users which are to be allocated, distributed or deposited in the state road fund pursuant to either section 30(a) or section 30(b) shall be diverted from the highway purposes and uses specified in subsection 1 of section 30(b). No state revenues derived from highway users which are to be allocated, distributed or deposited in the state road bond fund pursuant to subdivision (3) of subsection 2 of section 30(b) shall be diverted from the highway purposes and uses specified in said subdivision (3).

2. All of the provisions of sections 29, 30(a), 30(b), 30(c) and 30(d) shall be self executing. All of the provisions of sections 29, 30(a), 30(b), 30(c) and 30(d) are severable. If any provision of sections 29, 30(a), 30(b), 30(c) and (30(d) is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of these sections shall be and remain valid.

3. The provisions of sections 29, 30(a), 30(b), 30(c) and 30(d) shall become effective on July 1, 2005.]

14-054

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 28, 2013

RECEIVED
OCT 2 8 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Brad Ketcher regarding a proposed constitutional amendment to Article III (2014-054)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Brad Ketcher on October 28, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-054 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 OCT 28 11:10 AM
SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the state of Missouri that the Constitution be amended: 14-054

Section A. Article III of the Constitution is revised by amending Sections 12, 19 and 39 and adopting 3 new sections to be known as Article III Sections 16(a), 19(a), and 19(b), to read as follows:

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of two calendar years after the conclusion of the session of the general assembly in which the member or employee last served. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or consultant to a candidate or issue campaign or solicit prospective employers or clients as a paid employee or consultant to a candidate or issue campaign. When any senator or representative violates this paragraph their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this paragraph shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

Section 16(a). No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value in excess of five dollars from any lobbyist or lobbyist principal. Senators or representatives, their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. Candidates for senator or representative, including candidates for reelection, may accept campaign contributions consistent with section 19(a) of this article. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records. Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate respectively.

Section 19(a). 1. The amount of contributions, including cash and in-kind contributions, to a candidate for state senate or state representative made by or accepted from any person or independent entity other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of state senator, one thousand dollars;
(b) To elect an individual to the office of state representative, five hundred dollars;

14-054

(c) These contribution limits shall be recalculated on January 1 of even-numbered years by multiplying the original contribution limit by the cumulative consumer price index, as defined by law, for all years since January 1, 2015 and rounding to the nearest twenty-five dollars.

2. Unless the illegal contribution is refunded within ten business days, any person or entity making or accepting a contribution to a candidate for state senate or state representative in excess of those allowed in subsection 1 shall be subject to:

(a) For the first violation, a civil fine of five thousand dollars plus an amount equal to the illegal contribution.
(b) For the second and subsequent violations, any person or entity knowingly making or accepting an illegal contribution shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal contribution or both.

3. The legislative contribution limits in subsection 1 shall not apply to "truly independent expenditures." As used in this section "truly independent expenditure" means one or more wholly independent expenditures that support the nomination, election, or defeat of a clearly identified candidate for state senate or state representative that is made without the cooperation or consent of, communication, coordination or consultation with, or the request or suggestion of the candidate, the candidate's committee, the candidate's campaign, the candidate's agents, consultants or advisors. In addition to other penalties of this section, any person or entity who purposefully violates the contribution limits of subsection 1 by making, accepting or facilitating an excessive expenditure that does not meet the requirements for a truly independent expenditure shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal expenditure or both.

4. The penalties in this section do not limit the power of either the house of representatives or the senate to discipline its own members. Nothing in this section shall restrict the general assembly or the People from passing campaign finance requirements that are more restrictive than those in this section.

Section 19(b). No political fund-raising activities or political fund-raising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party, or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

Section 39. The general assembly shall not have power:

(1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation;

(2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation;

(3) To grant or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor after service has been rendered or a contract has been entered into and performed in whole or in part;

(4) To pay or to authorize the payment of any claim against the state or any county or municipal corporation of the state under any agreement or contract made without express authority of law;

(5) To release or extinguish or to authorize the releasing or extinguishing, in whole or in part, without consideration, the indebtedness, liability or obligation of any corporation or individual due this state or any county or municipal corporation;

14-054

(6) To make any appropriation of money for the payment, or on account of or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An Act to Audit and Adjust the War Debts of the State," approved March 19, 1874, or any act of a similar nature, until the claim so audited shall have been presented to and paid by the government of the United States to this state;

(7) To act, when convened in extra session by the governor, upon subjects other than those specially designated in the proclamation calling said session or recommended by special message to the general assembly after the convening of an extra session;

(8) To remove the seat of government from the City of Jefferson;

(9) Except as otherwise provided in section 39(b), section 39(c), section 39(e) or section 39(f) of this article, to authorize lotteries or gift enterprises for any purpose, and shall enact laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; except that, nothing in this section shall be so construed as to prevent or prohibit citizens of this state from participating in games or contests of skill or chance where no consideration is required to be given for the privilege or opportunity of participating or for receiving the award or prize and the term "lottery or gift enterprise" shall mean only those games or contests whereby money or something of value is exchanged directly for the ticket or chance to participate in the game or contest. The general assembly may, by law, provide standards and conditions to regulate or guarantee the awarding of prizes provided for in such games or contests under the provision of this subdivision;

(10) To impose a use or sales tax upon the use, purchase or acquisition of property paid for out of the funds of any county or other political subdivision[.];

(11) To prohibit the counting of an otherwise genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter.

14-055

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 4, 2013

RECEIVED
NOV 04 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 2 (2014-055)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Bradley Ketcher on November 1, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-055 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 NOV -1 PM 2:20
MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-055

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article III of the Constitution is revised by amending Sections 12, 19 and 39 and adopting 3 new sections to be known as Article III Sections 16(a), 19(a), and 19(b), to read as follows:

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of two calendar years after the conclusion of the session of the general assembly in which the member or employee last served. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or consultant to a candidate or issue campaign or solicit prospective employers or clients as a paid employee or consultant to a candidate or issue campaign. When any senator or representative violates this paragraph their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this paragraph shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

Section 16(a). No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value in excess of five dollars from any lobbyist or lobbyist principal. Senators or representatives, their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. Candidates for senator or representative or offices within the senate or house, including candidates for reelection, may accept campaign contributions consistent with section 19(a) of this article. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records. Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate respectively.

Section 19(a). 1. The amount of contributions, including cash and in-kind contributions, to a candidate for state senate, state representative or any office within the senate or house made by or accepted from any natural person or independent entity other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of state senator or an office within the senate, one thousand dollars;

14055

(b) To elect an individual to the office of state representative or an office within the house, five hundred dollars;
(c) These contribution limits shall be recalculated on January 1 of even-numbered years by multiplying the original contribution limit by the cumulative consumer price index, as defined by law, for all years since January 1, 2015 and rounding to the nearest twenty-five dollars.

2. Unless the illegal contribution is refunded within ten business days, any person or entity making, accepting or retaining a contribution to a candidate for state senate, state representative or an office within the senate or house in excess of those allowed in subsection 1 shall be subject to:

(a) For the first violation, a civil fine of five thousand dollars plus an amount equal to the illegal contribution.
(b) For the second and subsequent violations, any person or entity knowingly making, accepting or retaining an illegal contribution shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal contribution or both.

3. The legislative contribution limits in subsection 1 shall not apply to a "truly independent expenditure." As used in this section, "truly independent expenditure" means one or more wholly independent expenditures that support the nomination, election, or defeat of a clearly identified candidate that is made without the cooperation or consent of, communication, coordination or consultation with, or the request or suggestion of the candidate, the candidate's committee, the candidate's campaign, the candidate's agents, consultants or advisors. In addition to other penalties of this section, any person or entity who purposefully violates the contribution limits of subsection 1 by making, accepting or facilitating an excessive expenditure that does not meet the requirements for a truly independent expenditure shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal expenditure or both.

4. The penalties in this section do not limit the power of either the house of representatives or the senate to discipline its own members. Nothing in this section shall restrict the general assembly or the People from passing campaign finance requirements that are more restrictive than those in this section.

Section 19(b). No political fund-raising activities or political fund-raising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

Section 39. The general assembly shall not have power:

(1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation;

(2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation;

(3) To grant or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor after service has been rendered or a contract has been entered into and performed in whole or in part;

(4) To pay or to authorize the payment of any claim against the state or any county or municipal corporation of the state under any agreement or contract made without express authority of law;

(5) To release or extinguish or to authorize the releasing or extinguishing, in whole or in part, without consideration, the indebtedness, liability or obligation of any corporation or individual due this state or any county or municipal corporation;

14-055

(6) To make any appropriation of money for the payment, or on account of or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An Act to Audit and Adjust the War Debts of the State," approved March 19, 1874, or any act of a similar nature, until the claim so audited shall have been presented to and paid by the government of the United States to this state;

(7) To act, when convened in extra session by the governor, upon subjects other than those specially designated in the proclamation calling said session or recommended by special message to the general assembly after the convening of an extra session;

(8) To remove the seat of government from the City of Jefferson;

(9) Except as otherwise provided in section 39(b), section 39(c), section 39(e) or section 39(f) of this article, to authorize lotteries or gift enterprises for any purpose, and shall enact laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; except that, nothing in this section shall be so construed as to prevent or prohibit citizens of this state from participating in games or contests of skill or chance where no consideration is required to be given for the privilege or opportunity of participating or for receiving the award or prize and the term "lottery or gift enterprise" shall mean only those games or contests whereby money or something of value is exchanged directly for the ticket or chance to participate in the game or contest. The general assembly may, by law, provide standards and conditions to regulate or guarantee the awarding of prizes provided for in such games or contests under the provision of this subdivision;

(10) To impose a use or sales tax upon the use, purchase or acquisition of property paid for out of the funds of any county or other political subdivision[.];

(11) To prohibit the counting of a genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter.

14-056

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 8, 2013

RECEIVED
NOV 0 8 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matthew Dameron regarding a proposed constitutional amendment to Article VIII, version 1 (2014-056)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Matthew Dameron on November 7, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

~~Version 1~~ JB

14-056

County _____

Page No. _____

RECEIVED
2013 NOV -7 PM 4:11
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not the registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State of the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a register voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

[Insert ballot title here]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.	/ /				
2.	/ /				
3.	/ /				
4.	/ /				
5.	/ /				
6.	/ /				
7.	/ /				
8.	/ /				
9.	/ /				
10.	/ /				

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary:_____

Notary Public (Seal)

_____

My commission expires _____

H-056

THE PROPOSED AMENDMENT

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article VIII, Constitution of Missouri, is amended by adding one new section, to be known as section 8, to read as follows:

Section 8. Voters of the state shall be entitled to vote early in advance of election day, without having to state an excuse, in-person or by mail for all federal or state general elections as follows:

1. Early voting shall be conducted from the sixth Tuesday before the election until the close of regular business hours the Monday immediately before the election for both in-person and mail-in voting. The hours for conducting early voting shall be the regular business hours of each local election authority. For the twenty one days immediately prior to election day, the hours for early voting shall also include at least five hours on Saturday and at least five hours on Sunday with such hours on Saturday and Sunday including the hours of 12 p.m. to 5 p.m. On the last Thursday during the early voting period immediately before the election, the hours for conducting early voting must include the hours of 8 a.m. to 7 p.m.

2. Each local election authority shall conduct early voting at a central vote early location. In addition, each local election authority with more than one hundred fifty thousand registered voters shall establish satellite vote early sites as additional locations at which to vote early as follows:

(1) In addition to conducting voting at the central vote early location, each local election authority with more than one hundred fifty thousand registered voters shall provide one satellite vote early site. Local election authorities shall provide one satellite vote early site for registered voters in excess of one hundred fifty thousand and an additional satellite vote early site for each increment of fifty thousand registered voters such that local election authorities will provide one central location for up to one hundred and fifty thousand registered voters, one central location and one satellite site for between one hundred fifty thousand and two hundred thousand registered voters, one central location and two satellite sites for between two hundred thousand and two hundred fifty thousand registered voters, et cetera;

(2) For purposes of this section, the number of registered voters shall be determined by the number of registered voters in that jurisdiction in the previous federal general election;

(3) In determining the location of the satellite vote early sites, the local election authority shall consider factors, including but not limited to, the geographic location and demographics of voters in the previous federal general election and current United States census data to ensure nondiscrimination in the representation of the community served to the greatest extent possible;

(4) The election authority shall provide adequate public notice of the designated central vote early location and the satellite vote early sites, including but not limited to, posting information concerning the availability of early voting and the location(s) and hours for early voting prominently at the local election authority's office, prominently on the web site of the local election authority, and by such other methods as the local election authority may reasonably select; and

(5) Nothing in this section shall prohibit a local election authority from establishing additional satellite voting locations in excess of those required by this provision, nor shall this section prohibit a local election authority with fewer than one hundred fifty thousand registered voters from establishing one or more satellite vote early sites.

3. Local election authorities shall appoint at least one election judge from each major political party to serve at the central vote early location and at any satellite vote early site. Procedures for appointing judges for central vote early locations and satellite vote early sites shall be the same as provided in the general election law. Procedures for designating challengers for central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for casting ballots at central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for tabulating ballots cast at central vote early locations and satellite vote early sites shall be the same as provided in the general election law.

4. The state of Missouri and all local election authorities shall make available to any requester a list of all voters who have already cast such ballots. Such list shall only include voter information authorized pursuant to the general election law and shall be made available promptly after a request. Such list shall be provided in a paper or a readily available electronic format, at the option of the requester.

5. This section is self-executing. Any law that conflicts with this section shall not be valid or enforceable, and this section shall be implemented notwithstanding Article X Sections 16-24 of the Missouri Constitution. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

14-057

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 8, 2013

RECEIVED
NOV 0 8 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matthew Dameron regarding a proposed constitutional amendment to Article VIII, version 2 (2014-057)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Matthew Dameron on November 7, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-057

RECEIVED

2013 NOV -7 PM 4:11

MO SEC. OF STATE

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not the registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State of the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a register voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

[Insert ballot title here]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.	/ /				
2.	/ /				
3.	/ /				
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10.	/ /				

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary:_____

Notary Public (Seal)

_____

My commission expires _____

K1-057

THE PROPOSED AMENDMENT

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article VIII, Constitution of Missouri, is amended by adding one new section, to be known as section 8, to read as follows:

Section 8. Voters of the state shall be entitled to vote early in advance of election day, without having to state an excuse, in-person or by mail for all federal or state general elections as follows:

1. Early voting shall be conducted from the sixth Tuesday before the election until the close of regular business hours the Monday immediately before the election for both in-person and mail-in voting. The hours for conducting early voting shall be the regular business hours of each local election authority. For the twenty one days immediately prior to election day, the hours for early voting shall also include at least five hours on Saturday and at least five hours on Sunday with such hours on Saturday and Sunday including the hours of 12 p.m. to 5 p.m. On the last Thursday during the early voting period immediately before the election, the hours for conducting early voting must include the hours of 8 a.m. to 7 p.m.

2. Each local election authority shall conduct early voting at a central vote early location. In addition, each local election authority with more than one hundred thousand registered voters shall establish satellite vote early sites as additional locations at which to vote early as follows:

(1) In addition to conducting voting at the central vote early location, each local election authority with more than one hundred thousand registered voters shall provide one satellite vote early site. Local election authorities shall provide one satellite vote early site for registered voters in excess of one hundred thousand and an additional satellite vote early site for each increment of fifty thousand registered voters such that local election authorities will provide one central location for up to one hundred thousand registered voters, one central location and one satellite site for between one hundred and one hundred fifty thousand registered voters, one central location and two satellite sites for between one hundred fifty thousand and two hundred thousand registered voters, et cetera;

(2) For purposes of this section, the number of registered voters shall be determined by the number of registered voters in that jurisdiction in the previous federal general election;

(3) In determining the location of the satellite vote early sites, the local election authority shall consider factors, including but not limited to, the geographic location and demographics of voters in the previous federal general election and current United States census data to ensure nondiscrimination in the representation of the community served to the greatest extent possible;

(4) The election authority shall provide adequate public notice of the designated central vote early location and the satellite vote early sites, including but not limited to, posting information concerning the availability of early voting and the location(s) and hours for early voting prominently at the local election authority's office, prominently on the web site of the local election authority, and by such other methods as the local election authority may reasonably select; and

(5) Nothing in this section shall prohibit a local election authority from establishing additional satellite voting locations in excess of those required by this provision, nor shall this section prohibit a local election authority with fewer than one hundred thousand registered voters from establishing one or more satellite vote early sites.

3. Local election authorities shall appoint at least one election judge from each major political party to serve at the central vote early location and at any satellite vote early site. Procedures for appointing judges for central vote early locations and satellite vote early sites shall be the same as provided in the general election law. Procedures for designating challengers for central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for casting ballots at central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for tabulating ballots cast at central vote early locations and satellite vote early sites shall be the same as provided in the general election law.

4. The state of Missouri and all local election authorities shall make available to any requester a list of all voters who have already cast such ballots. Such list shall only include voter information authorized pursuant to the general election law and shall be made available promptly after a request. Such list shall be provided in a paper or a readily available electronic format, at the option of the requester.

5. This section is self-executing. Any law that conflicts with this section shall not be valid or enforceable, and this section shall be implemented notwithstanding Article X Sections 16-24 of the Missouri Constitution. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

14-058

RECEIVED

NOV 0 8 2013

STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 8, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matthew Dameron regarding a proposed constitutional amendment to Article VIII, version 3 (2014-058)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Matthew Dameron on November 7, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-058

RECEIVED

County _____

Page No. _____

2013 NOV -7 PM 4:12

MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not the registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State of the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a register voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

[Insert ballot title here]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.	/ /				
2.	/ /				
3.	/ /				
4.	/ /				
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6.	/ /				
7.	/ /				
8.	/ /				
9.	/ /				
10.	/ /				

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

Notary Public (Seal)

_____

My commission expires _____

H-058

THE PROPOSED AMENDMENT

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article VIII, Constitution of Missouri, is amended by adding one new section, to be known as section 8, to read as follows:

Section 8. Voters of the state shall be entitled to vote early in advance of election day, without having to state an excuse, in-person or by mail for all federal or state general elections as follows:

1. Early voting shall be conducted from the sixth Tuesday before the election until the close of regular business hours the Monday immediately before the election for both in-person and mail-in voting. The hours for conducting early voting shall be the regular business hours of each local election authority. For the twenty one days immediately prior to election day, the hours for early voting shall also include at least five hours on Saturday and at least five hours on Sunday with such hours on Saturday and Sunday including the hours of 12 p.m. to 5 p.m. On the last Thursday during the early voting period immediately before the election, the hours for conducting early voting must include the hours of 8 a.m. to 7 p.m.

2. Each local election authority shall conduct early voting at a central vote early location. In addition, each local election authority with more than one hundred seventy five thousand registered voters shall establish satellite vote early sites as additional locations at which to vote early as follows:

(1) In addition to conducting voting at the central vote early location, each local election authority with more than one hundred seventy five thousand registered voters shall provide one satellite vote early site. Local election authorities shall provide one satellite vote early site for registered voters in excess of one hundred seventy five thousand and an additional satellite vote early site for each increment of seventy five thousand registered voters such that local election authorities will provide one central location for up to one hundred seventy five thousand registered voters, one central location and one satellite site for between one hundred seventy five and two hundred and fifty thousand registered voters, one central location and two satellite sites for between two hundred fifty thousand and three hundred twenty five thousand registered voters, et cetera;

(2) For purposes of this section, the number of registered voters shall be determined by the number of registered voters in that jurisdiction in the previous federal general election;

(3) In determining the location of the satellite vote early sites, the local election authority shall consider factors, including but not limited to, the geographic location and demographics of voters in the previous federal general election and current United States census data to ensure nondiscrimination in the representation of the community served to the greatest extent possible;

(4) The election authority shall provide adequate public notice of the designated central vote early location and the satellite vote early sites, including but not limited to, posting information concerning the availability of early voting and the location(s) and hours for early voting prominently at the local election authority's office, prominently on the web site of the local election authority, and by such other methods as the local election authority may reasonably select; and

(5) Nothing in this section shall prohibit a local election authority from establishing additional satellite voting locations in excess of those required by this provision, nor shall this section prohibit a local election authority with fewer than one hundred thousand seventy five registered voters from establishing one or more satellite vote early sites.

3. Local election authorities shall appoint at least one election judge from each major political party to serve at the central vote early location and at any satellite vote early site. Procedures for appointing judges for central vote early locations and satellite vote early sites shall be the same as provided in the general election law. Procedures for designating challengers for central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for casting ballots at central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for tabulating ballots cast at central vote early locations and satellite vote early sites shall be the same as provided in the general election law.

4. The state of Missouri and all local election authorities shall make available to any requester a list of all voters who have already cast such ballots. Such list shall only include voter information authorized pursuant to the general election law and shall be made available promptly after a request. Such list shall be provided in a paper or a readily available electronic format, at the option of the requester.

5. This section is self-executing. Any law that conflicts with this section shall not be valid or enforceable, and this section shall be implemented notwithstanding Article X Sections 16-24 of the Missouri Constitution. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

14-059

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 12, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
NOV 12 2013
STATE AUDITORS OFFICE

RE: Petition approval request from Aaron Willard regarding a proposed constitutional amendment to Article X, version 1 (2014-059)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Aaron Willard on November 8, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-059

County _____

Page _____

RECEIVED
2013 DEC -6 PM 4:10
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the state of Missouri that the Constitution be amended:

14-059

Article X is amended by repealing Section 1 and two new sections are adopted to be known as Article X, Sections 1 and 26.

Section 1. (a) The General Assembly and all state executive agencies and departments shall not issue, authorize or approve a cumulative amount of tax credits in excess of $200 million per state fiscal year. If the cumulative amount of tax credits issued, authorized or approved in any state fiscal year exceeds $200 million, the existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

(b) If the existing rate of the individual income tax is one quarter of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

(c) "Reduction factor" is the percentage, rounded up to the nearest quarter of one percent but not less than one quarter of one percent, sufficient to reduce tax collections by the cumulative amount of tax credits issued, authorized or approved in any state fiscal year which is in excess of $200 million.

(d) All tax credits, issued after the effective date of this amendment, shall be redeemed within five years of the date of issuance of such tax credit and any tax credits issued after the effective date of this amendment but not redeemed in such time period shall expire and cannot be used to offset or pay any tax liability or be refunded from any state funds or by any state entity.

(e) Notwithstanding other provisions of this constitution, any taxpayer of the state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section and, if the suit is sustained, shall receive from the state his costs, including reasonable attorneys' fees, incurred in maintaining such suit.

Section 26. The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes, except as restricted in Section 1 of this Article.

[Section 1. The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes.]

14-060

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 12, 2013

RECEIVED
NOV 12 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Aaron Willard regarding a proposed constitutional amendment to Article X, version 2 (2014-060)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Aaron Willard on November 8, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-060

RECEIVED

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

2014 NOV 18 PM 4:18

MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the state of Missouri that the Constitution be amended: 14-060

Article X is amended by repealing Section 1 and two new sections are adopted to be known as Article X, Sections 1 and 26.

Section 1. (a) The General Assembly and all state executive agencies and departments shall not issue, authorize or approve any amount of tax credits beyond those issued, authorized and approved on the effective date of this amendment. If any amount of tax credits are issued, authorized or approved in any state fiscal year, the existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

(b) If the existing rate of the individual income tax is one quarter of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

(c) "Reduction factor" is the percentage, rounded up to the nearest quarter of one percent but not less than one quarter of one percent, sufficient to reduce tax collections by the amount of tax credits issued, authorized or approved in any state fiscal year.

Section 26. The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes, except as restricted in Section 1 of this Article.

[Section 1. The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes.]

14-061

RECEIVED

NOV 18 2013

STATE AUDITOR'S OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 18, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Aaron Willard regarding a proposed constitutional amendment to Article X (2014-061)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Aaron Willard on November 15, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-061

RECEIVED
2013 NOV 15 PM 3:58
SEC. OF STATE

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
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15.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-061

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article X is amended by repealing Sections 1 and 4(d) and seven new sections are adopted to be known as Article X, Sections 1(a) through (f) and 4(d).

Section 1(a). The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes, except the general assembly shall not have the power to enact any law:

(i) imposing a tax on or measured by the income or earnings of an individual for tax years beginning on or after January 1, 2015, except as provided in sections 1(a) through 1(d) of this article; or

(ii) authorizing any county or other political subdivision to enact, levy or impose a tax on or measured by the income or earnings of an individual, except any tax on or measured by the income or earnings of an individual that was lawfully enacted and imposed by a city prior to January 1, 2015, and continues to be lawfully renewed by voters of such city.

Section 1(b). (1) Any existing tax on or measured by the income or earnings of an individual shall be repealed effective January 1, 2015, except:

(i) the tax imposed by section 1(c); and

(ii) any tax on or measured by the income or earnings of an individual that was lawfully enacted and imposed by a city prior to January 1, 2013 and continues to be lawfully renewed by voters of such city.

(2) Any tax in effect for a tax year ending on or before December 31, 2014 shall be collectible by the Director of Revenue as may be provided by law.

Section 1(c). For tax years beginning on or after January 1, 2015, there shall be a tax imposed as follows:

(i). On married individuals filing joint returns and heads of households:

(A). On all Missouri taxable income not over $30,000 a tax at the rate of three percent; and

(B). On all Missouri taxable income over $30,000 a tax at the rate of four point nine percent plus $900;

(ii). On all other individuals:

(A). On all Missouri taxable income not over $15,000 a tax at the rate of three percent; and

(B). On all Missouri taxable income over $15,000 a tax at the rate of four point nine percent plus $450.

Section 1(d). "Missouri taxable income" shall be as defined by law, but shall not include (1) net profits from a business reported on schedule C and on line 12 of the taxpayer's form 1040 federal income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, and net farm rental as reported on schedule E and line 17 of the taxpayer's form 1040 federal income tax return; and (3) net farm profit as reported on schedule F and line 18 of the taxpayer's form 1040 federal income tax return. For purposes of this section, the schedules, lines and form shall be such as existed for tax year 2011 and as revised thereafter by the internal revenue service.

Section 1(e). The General Assembly may enact, without submitting to a statewide vote, an increase in the rate of sales tax imposed for general revenue purposes or an expansion of the base of the sales tax imposed for general revenue purpose or both. The authorization in this section shall be effective only if the revenues collected by the department of revenue decrease as a result of the

14-061

operation of sections 1(a) through 1(d) of this article and such increase in the rate or expansion of the base shall only be in such amount as to equal the decrease in revenues collected by the department of revenue as a direct result of sections 1(a) through 1(d) of this section. The increase or expansion authorized in this section shall be recalculated and renewed every year or, if not renewed, shall expire on the anniversary of the day which such increase or expansion was effective. The provisions of Article X, Section 18(e) shall not apply to the actions of the General Assembly under this section.

Section 1(f). Sections 1(a) through (f) of this article shall be self-enforcing, and the general assembly may enact laws, not inconsistent therewith, to provide for the administration and collection of the tax imposed in section 1(c) and authorized in section 1(e) of this article and in aid of the provisions of sections 1(a) through 1(f) of this article.

Section 4(d). In enacting any law defining Missouri taxable income, the general assembly may reference provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The general assembly may in so defining Missouri taxable income make exceptions, additions, or modifications to any provisions of the laws of the United States so referred to and for retrospective exceptions or modifications to those provisions which are retrospective.

[Section 1. The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes.]

[Section 4(d). In enacting any law imposing a tax on or measured by income, the general assembly may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The general assembly shall in any such law set the rate or rates of such tax. The general assembly may in so defining income make exceptions, additions, or modifications to any provisions of the laws of the United States so referred to and for retrospective exceptions or modifications to those provisions which are retrospective.]

14-062

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 18, 2013

RECEIVED
NOV 18 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Steven Reed regarding a proposed constitutional amendment to Article IV (2014-062)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Steven Reed on November 18, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2014 NOV -8 AM 9:55
MO SEC. OF STATE

K4-062

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DISTR.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____

H-062

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Section 30 of article IV of the Constitution of Missouri is amended by adding Section 30(E). The new section includes the following underlined language:

Monies collected from a one tenth of one percent sales tax will be used for the purpose of developing Rail Passenger Service in Missouri including from St. Louis to Rolla, Springfield, Aurora, Billings, Marionville, Republic, Crane, Galena, Reeds Spring, Hollister and Branson with one half of the funding to go to the future development of High Speed Rail between the cities. (Will allow connection of the Chicago Rail Passenger Line to Tulsa and other cities in Texas). A one tenth of one percent sales tax upon or measured by fuel used for propelling motor vehicles (automobiles, trailers, motorcycles, mopeds), is to be levied and collected as provided by law.

14-063

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 18, 2013

RECEIVED
NOV 18 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Steven Reed regarding a proposed constitutional amendment to Article IV (2014-063)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Steven Reed on November 18, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure or the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 NOV 18 AM 9:59
MO SEC. OF STATE

14-063

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____

14-063

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Section 36(a) of Article IV of the Constitution of Missouri is amended by modifying Section 36(a). The existing section 36(a) is set forth hereinafter with the new matter underlined.

Section 36(a). **Economic development, department of ---duties of department---director, how appointed. ---** The department of economic development shall be in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall administer all programs provided by law relating to the promotion of the economy of the state, the economic development of the state, trade and business, technology development and other activities and programs impacting on the economy of the state.

A state sales tax of one tenth of one percent will provide additional money for the State Economic Development Department to be used solely for the promotion and development of one or more "Technology Parks" in southwest Missouri. Technology Parks serve as incubators helping create new companies, jobs, and research and development. The cities of Ozark, Billings, Joplin, Nixa, Republic, Willard, Springfield and any other legal city will be able to submit request for funding. Funding awards will be based on the Professional Level and Viability of the Proposals submitted by each City and will be judged by the Economic Development office of the State of Missouri. Each City government may elect to have "do we Citizens want a technology park" issue placed on the local election ballot to show the support of their Citizens and that can also be judged by the Economic Development Department of the State of Missouri as an indicator whether the local citizens feel there is a need for such a project. Before the end of the one-year of collection of the said tax, a foundation will be set up and Labor Leaders, Business Leaders, Educational Leaders, and the public at large will be encouraged to contribute to the fund. The tax will sunset or "end" after one year of collections.

This will allow for the "fair and equal treatment" of the citizens of the state. Technology centers and or zones/parks have been created in St. Louis. Fort Leonard Wood, and Kansas City.

The one year sales/use tax of one tenth of one percent (referred to above) is hereby levied and imposed upon all sellers for the privilege of selling tangible personal property or rendering taxable services at retail in this state upon the sales and services which now are or hereafter are listed and set forth in, and, except as to the amount of tax, subject to the provisions of and to be collected as provide in the "Sales Tax Law" and subject to the rules and regulations promulgated in connection therewith; the one year sales/use tax of one tenth of one percent is levied and imposed for the privilege of storing, using or consuming within this state any article of tangible personal property as set forth and provided in the "Compensating Use Tax law" and, except as to the amount of the tax, subject to the provisions of and to be collected as provided in the "Compensating Tax Law" and subject to the rules and regulations promulgated in connection therewith. Schedule

Section 36(a) amendment. All of the provisions of 36(a) amendment shall be self-enforcing except that the general assembly shall adjust brackets for the collection of the sales and use taxes. The above one tenth of one percent sales/use tax will sunset one year after imposition.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

14-064

November 18, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
NOV 18 2013
STATE AUDITORS OFFICE

RE: Petition approval request from Steven Reed regarding a proposed constitutional amendment to Article IV (2014-064)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Steven Reed on November 18, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County_____

Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 NOV 18 AM 8:55
SECRETARY OF STATE
MO SEC. OF STATE

14-064

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____

Signature of Affiant
(Person obtaining signatures)

_____

Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____

Signature of Notary
Address of Notary

Notary Public (Seal)

My commission expires _____

14-064

BE IT RESOLVED BY THE PEOPLE OF THE STATE OF MISSOURI THAT THE CONSITUTION BE AMENDED:

Section 17 of article IV of the Constitution of Missouri is amended by adding Section 17(B). The new section includes the following underlined language:

MISSOURI CONSTITUTION

Section 17(b.) RECALL Elective State Officers

All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require. A voter who casts a vote in an election in accordance with the laws of this State shall have that vote counted.

Recall is the power of the electors to remove an elective officer. Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county.

The Secretary of State shall maintain a continuous count of the signatures certified to that office. An election to determine whether to recall an office rand, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at the next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively. A state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election. The Legislature shall provide for recall of local officers. This section does not affect counties and cities whose charters provide for recall.

14-065

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 20, 2013

RECEIVED
NOV 20 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matthew Dameron regarding a proposed constitutional amendment to Article VIII, version 4 (2014-065)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Matthew Dameron on November 19, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-065

County _____

Page No. _____

RECEIVED
2013 NOV 19 AM 9:09
SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not the registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State of the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a register voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

[Insert ballot title here]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary:_____

Notary Public (Seal)

_____

My commission expires _____

H-065

THE PROPOSED AMENDMENT

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article VIII, Constitution of Missouri, is amended by adding one new section, to be known as section 8, to read as follows:

Section 8. Voters of the state shall be entitled to vote early in advance of election day, without having to state an excuse, in-person or by mail for all federal or state general elections as follows:

1. Early voting shall be conducted from the sixth Tuesday before the election until the close of regular business hours the Monday immediately before the election for both in-person and mail-in voting. The hours for conducting early voting shall be the regular business hours of each local election authority. For the twenty one days immediately prior to election day, the hours for early voting shall also include at least five hours on Saturday and at least five hours on Sunday with such hours on Saturday and Sunday including the hours of 12 p.m. to 5 p.m. On the last Thursday during the early voting period immediately before the election, the hours for conducting early voting must include the hours of 8 a.m. to 7 p.m.

2. Each local election authority shall conduct early voting at a central vote early location. In addition, each local election authority with more than one hundred fifty thousand registered voters shall establish satellite vote early sites as additional locations at which to vote early as follows:

(1) In addition to conducting voting at the central vote early location, each local election authority with more than one hundred fifty thousand registered voters shall provide one satellite vote early site. Local election authorities shall provide one satellite vote early site for registered voters in excess of one hundred fifty thousand and an additional satellite vote early site for each increment of fifty thousand registered voters such that local election authorities will provide one central location for up to one hundred and fifty thousand registered voters, one central location and one satellite site for between one hundred fifty thousand and two hundred thousand registered voters, one central location and two satellite sites for between two hundred thousand and two hundred fifty thousand registered voters, et cetera;

(2) For purposes of this section, the number of registered voters shall be determined by the number of registered voters in that jurisdiction in the previous federal general election;

(3) In determining the location of the satellite vote early sites, the local election authority shall consider factors, including but not limited to, the geographic location and demographics of voters in the previous federal general election and current United States census data to ensure nondiscrimination in the representation of the community served to the greatest extent possible;

(4) The election authority shall provide adequate public notice of the designated central vote early location and the satellite vote early sites, including but not limited to, posting information concerning the availability of early voting and the location(s) and hours for early voting prominently at the local election authority's office, prominently on the web site of the local election authority, and by such other methods as the local election authority may reasonably select; and

(5) Nothing in this section shall prohibit a local election authority from establishing additional satellite voting locations in excess of those required by this provision, nor shall this section prohibit a local election authority with fewer than one hundred fifty thousand registered voters from establishing one or more satellite vote early sites.

3. Local election authorities shall appoint at least one election judge from each major political party to serve at the central vote early location and at any satellite vote early site. Procedures for appointing judges for central vote early locations and satellite vote early sites shall be the same as provided in the general election law. Procedures for designating challengers for central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for casting ballots at central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for tabulating ballots cast at central vote early locations and satellite vote early sites shall be the same as provided in the general election law.

4. The state of Missouri and all local election authorities shall make available to any requester a list of all voters who have already cast such ballots. Such list shall only include voter information authorized pursuant to the general election law and shall be made available promptly after a request. Such list shall be provided in a paper or a readily available electronic format, at the option of the requester.

5. This section is self-executing. Any law that conflicts with this section shall not be valid or enforceable, and this section shall be implemented notwithstanding Article X Sections 16-24 of the Missouri Constitution. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

14-066

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 20, 2013

RECEIVED
NOV 20 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matthew Dameron regarding a proposed constitutional amendment to Article VIII, version 5 (2014-066)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Matthew Dameron on November 19, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-066

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2013 NOV 19 AM 9:10

MO SEC. OF STATE

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not the registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State of the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a register voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

[Insert ballot title here]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.	/ /				
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4.	/ /				
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10.	/ /				

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary:_____

Notary Public (Seal)

_____

My commission expires _____

K1-006

THE PROPOSED AMENDMENT

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article VIII, Constitution of Missouri, is amended by adding one new section, to be known as section 8, to read as follows:

Section 8. Voters of the state shall be entitled to vote early in advance of election day, without having to state an excuse, in-person or by mail for all federal or state general elections as follows:

1. Early voting shall be conducted from the sixth Tuesday before the election until the close of regular business hours the Monday immediately before the election for both in-person and mail-in voting. The hours for conducting early voting shall be the regular business hours of each local election authority. For the twenty one days immediately prior to election day, the hours for early voting shall also include at least five hours on Saturday and at least five hours on Sunday with such hours on Saturday and Sunday including the hours of 12 p.m. to 5 p.m. On the last Thursday during the early voting period immediately before the election, the hours for conducting early voting must include the hours of 8 a.m. to 7 p.m.

2. Each local election authority shall conduct early voting at a central vote early location. In addition, each local election authority with more than one hundred thousand registered voters shall establish satellite vote early sites as additional locations at which to vote early as follows:

(1) In addition to conducting voting at the central vote early location, each local election authority with more than one hundred thousand registered voters shall provide one satellite vote early site. Local election authorities shall provide one satellite vote early site for registered voters in excess of one hundred thousand and an additional satellite vote early site for each increment of fifty thousand registered voters such that local election authorities will provide one central location for up to one hundred thousand registered voters, one central location and one satellite site for between one hundred and one hundred fifty thousand registered voters, one central location and two satellite sites for between one hundred fifty thousand and two hundred thousand registered voters, et cetera;

(2) For purposes of this section, the number of registered voters shall be determined by the number of registered voters in that jurisdiction in the previous federal general election;

(3) In determining the location of the satellite vote early sites, the local election authority shall consider factors, including but not limited to, the geographic location and demographics of voters in the previous federal general election and current United States census data to ensure nondiscrimination in the representation of the community served to the greatest extent possible;

(4) The election authority shall provide adequate public notice of the designated central vote early location and the satellite vote early sites, including but not limited to, posting information concerning the availability of early voting and the location(s) and hours for early voting prominently at the local election authority's office, prominently on the web site of the local election authority, and by such other methods as the local election authority may reasonably select; and

(5) Nothing in this section shall prohibit a local election authority from establishing additional satellite voting locations in excess of those required by this provision, nor shall this section prohibit a local election authority with fewer than one hundred thousand registered voters from establishing one or more satellite vote early sites.

3. Local election authorities shall appoint at least one election judge from each major political party to serve at the central vote early location and at any satellite vote early site. Procedures for appointing judges for central vote early locations and satellite vote early sites shall be the same as provided in the general election law. Procedures for designating challengers for central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for casting ballots at central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for tabulating ballots cast at central vote early locations and satellite vote early sites shall be the same as provided in the general election law.

4. The state of Missouri and all local election authorities shall make available to any requester a list of all voters who have already cast such ballots. Such list shall only include voter information authorized pursuant to the general election law and shall be made available promptly after a request. Such list shall be provided in a paper or a readily available electronic format, at the option of the requester.

5. This section is self-executing. Any law that conflicts with this section shall not be valid or enforceable, and this section shall be implemented notwithstanding Article X Sections 16-24 of the Missouri Constitution. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

14-067

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 20, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
NOV 20 2013
STATE AUDITORS OFFICE

RE: Petition approval request from Matthew Dameron regarding a proposed constitutional amendment to Article VIII, version 6 (2014-067)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Matthew Dameron on November 19, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED

2013 NOV 19 AM 9:21

MO SEC. OF STATE

14-067

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not the registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State of the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a register voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

[Insert ballot title here]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.	/ /				
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9.	/ /				
10.	/ /				

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary:_____

Notary Public (Seal)

_____

My commission expires _____

14-067

THE PROPOSED AMENDMENT

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article VIII, Constitution of Missouri, is amended by adding one new section, to be known as section 8, to read as follows:

Section 8. Voters of the state shall be entitled to vote early in advance of election day, without having to state an excuse, in-person or by mail for all federal or state general elections as follows:

1. Early voting shall be conducted from the sixth Tuesday before the election until the close of regular business hours the Monday immediately before the election for both in-person and mail-in voting. The hours for conducting early voting shall be the regular business hours of each local election authority. For the twenty one days immediately prior to election day, the hours for early voting shall also include at least five hours on Saturday and at least five hours on Sunday with such hours on Saturday and Sunday including the hours of 12 p.m. to 5 p.m. On the last Thursday during the early voting period immediately before the election, the hours for conducting early voting must include the hours of 8 a.m. to 7 p.m.

2. Each local election authority shall conduct early voting at a central vote early location. In addition, each local election authority with more than one hundred seventy five thousand registered voters shall establish satellite vote early sites as additional locations at which to vote early as follows:

(1) In addition to conducting voting at the central vote early location, each local election authority with more than one hundred seventy five thousand registered voters shall provide one satellite vote early site. Local election authorities shall provide one satellite vote early site for registered voters in excess of one hundred seventy five thousand and an additional satellite vote early site for each increment of seventy five thousand registered voters such that local election authorities will provide one central location for up to one hundred seventy five thousand registered voters, one central location and one satellite site for between one hundred seventy five and two hundred and fifty thousand registered voters, one central location and two satellite sites for between two hundred fifty thousand and three hundred twenty five thousand registered voters, et cetera;

(2) For purposes of this section, the number of registered voters shall be determined by the number of registered voters in that jurisdiction in the previous federal general election;

(3) In determining the location of the satellite vote early sites, the local election authority shall consider factors, including but not limited to, the geographic location and demographics of voters in the previous federal general election and current United States census data to ensure nondiscrimination in the representation of the community served to the greatest extent possible;

(4) The election authority shall provide adequate public notice of the designated central vote early location and the satellite vote early sites, including but not limited to, posting information concerning the availability of early voting and the location(s) and hours for early voting prominently at the local election authority's office, prominently on the web site of the local election authority, and by such other methods as the local election authority may reasonably select; and

(5) Nothing in this section shall prohibit a local election authority from establishing additional satellite voting locations in excess of those required by this provision, nor shall this section prohibit a local election authority with fewer than one hundred thousand seventy five registered voters from establishing one or more satellite vote early sites.

3. Local election authorities shall appoint at least one election judge from each major political party to serve at the central vote early location and at any satellite vote early site. Procedures for appointing judges for central vote early locations and satellite vote early sites shall be the same as provided in the general election law. Procedures for designating challengers for central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for casting ballots at central vote early locations and satellite vote early sites shall be the same as the procedures provided in the general election law. Procedures for tabulating ballots cast at central vote early locations and satellite vote early sites shall be the same as provided in the general election law.

4. The state of Missouri and all local election authorities shall make available to any requester a list of all voters who have already cast such ballots. Such list shall only include voter information authorized pursuant to the general election law and shall be made available promptly after a request. Such list shall be provided in a paper or a readily available electronic format, at the option of the requester.

5. This section is self-executing. Any law that conflicts with this section shall not be valid or enforceable, and this section shall be implemented notwithstanding Article X Sections 16-24 of the Missouri Constitution. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

14-068

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 1 (2014-068)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED 14-068

2013 DEC -3 PM 4:54

MO SEC. OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
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5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

I

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

K1-068

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

14-068

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

K1-068

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-069

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 2 (2014-069)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-069

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 DEC -3 PM 4:55

INITIATIVE PETITION

MO SEC. OF STATE

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-069

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

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(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

14-069

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-070

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 3 (2014-070)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-070

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 DEC -3 PM 1:56

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

III

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-070

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

14-0170

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

14-070

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-071

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 4 (2014-071)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-071

County _____
Page No. _____

RECEIVED
2013 DEC -3 PM 4:57
SECRETARY OF STATE
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-071

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(7) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(8) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(9) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(10) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(11) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(12) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(13) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(14) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(15) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(16) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(17) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(18) "Person" includes any individual or entity;

(19) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(20) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(21) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(22) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(23) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(24) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

14-071

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms

or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

15. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

16. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

17. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-072

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

December 4, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 5 (2014-072)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-072

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

2013 DEC -3 PM 4:59

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-072

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

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(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

14-072

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-073

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 6 (2014-073)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-073 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2014 DEC -3 PM 1:59

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-073

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

14-013

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-074

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 7 (2014-074)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-074

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 DEC -3 PM 5:00
SECRETARY OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

VII

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-074

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Eight marijuana plants and sixteen ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

14-014

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight marijuana plants and sixteen ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

14-0174

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-075

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 8 (2014-075)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-075 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2014 DEC -8 PM 5:01

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

	NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.		/ /					
2.		/ /					
3.		/ /					
4.		/ /					
5.		/ /					
6.		/ /					
7.		/ /					
8.		/ /					
9.		/ /					
10.		/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-075

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(7) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(8) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(9) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(10) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(11) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(12) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(13) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(14) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(15) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(16) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(17) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(18) "Person" includes any individual or entity.

(19) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(20) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(21) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(22) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(23) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(24) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

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(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms

or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

14-075

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

15. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

16. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

17. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-076

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 9 (2014-076)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-076

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 DEC -3 PM 5:02

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

JASON KANDER
MO SEC. OF STATE

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-076

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

14-0576

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

14-816

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-077

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2013

RECEIVED
DEC 04 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 10 (2014-077)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 3, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-077

County _____
Page No. _____

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2013 DEC -3 PM 5:03
SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

14-077

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(7) "Household exemption limits" means, at any given time:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(8) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(9) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(10) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(11) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(12) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(13) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(14) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(15) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(16) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(17) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(18) "Person" includes any individual or entity.

(19) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(20) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(21) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(22) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(23) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(24) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

14-077

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms

14-077

or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

15. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

16. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

17. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-078

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 6, 2013

RECEIVED
DEC 0 6 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Aaron Willard regarding a proposed constitutional amendment to Article X (2014-078)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Aaron Willard on December 5, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-078

County _____
Page _____

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MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-078

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article X is amended by repealing Sections 1 and 4(d) and seven new sections are adopted to be known as Article X, Sections 1(a) through (f) and 4(d).

Section 1(a). The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes, except the general assembly shall not have the power to enact any law:

(i) imposing a tax on or measured by the income or earnings of an individual for tax years beginning on or after January 1, 2015, except as provided in sections 1(a) through 1(d) of this article; or

(ii) authorizing any county or other political subdivision to enact, levy or impose a tax on or measured by the income or earnings of an individual, except any tax on or measured by the income or earnings of an individual that was lawfully enacted and imposed by a city prior to January 1, 2015, and continues to be lawfully renewed by voters of such city.

Section 1(b). (1) Any existing tax on or measured by the income or earnings of an individual shall be repealed effective January 1, 2015, except:

(i) the tax imposed by section 1(c); and

(ii) any tax on or measured by the income or earnings of an individual that was lawfully enacted and imposed by a city prior to January 1, 2013 and continues to be lawfully renewed by voters of such city.

(2) Any tax in effect for a tax year ending on or before December 31, 2014 shall be collected by the Director of Revenue as may be provided by law.

Section 1(c). For tax years beginning on or after January 1, 2015, there shall be a tax imposed as follows:

(i). On married individuals filing joint returns and heads of households:

(A). On all Missouri taxable income not over $30,000 a tax at the rate of three percent; and

(B). On all Missouri taxable income over $30,000 a tax at the rate of four point nine percent;

(ii). On all other individuals:

(A). On all Missouri taxable income not over $15,000 a tax at the rate of three percent; and

(B). On all Missouri taxable income over $15,000 a tax at the rate of four point nine percent.

Section 1(d). "Missouri taxable income" shall be as defined by law, but shall not include (1) net profits from a business reported on schedule C and on line 12 of the taxpayer's form 1040 federal income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, and net farm rental as reported on schedule E and line 17 of the taxpayer's form 1040 federal income tax return; and (3) net farm profit as reported on schedule F and line 18 of the taxpayer's form 1040 federal income tax return. For purposes of this section, the schedules, lines and form shall be such as existed for tax year 2011 and as revised thereafter by the internal revenue service.

Section 1(e). The General Assembly shall enact, without submitting to a statewide vote, an increase in the rate of sales tax imposed for general revenue purposes or an expansion of the base of the sales tax imposed for general revenue purposes or both. The authorization in this section shall be effective only if the net individual income tax revenues collected by the department of revenue

14-078

decrease as a result of the operation of sections 1(a) through 1(d) of this article. Such increase in the rate or expansion of the base shall only be in such amount as to equal the decrease in the net individual income tax revenues collected in the immediately prior tax year by the department of revenue, against 2014 net individual income tax revenues, as a direct result of sections 1(a) through 1(d) of this section. The increase or expansion mandated in this section shall be recalculated and renewed every year. The provisions of Article X, Section 18(e) shall not apply to the actions of the General Assembly under this section.

Section 1(f). Sections 1(a) through (f) of this article shall be self-enforcing, and the general assembly may enact laws, not inconsistent therewith, to provide for the administration and collection of the tax imposed in section 1(c) and authorized in section 1(e) of this article and in aid of the provisions of sections 1(a) through 1(f) of this article.

Section 4(d). In enacting any law defining Missouri taxable income, the general assembly may reference provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The general assembly may in so defining Missouri taxable income make exceptions, additions, or modifications to any provisions of the laws of the United States so referred to and for retrospective exceptions or modifications to those provisions which are retrospective.

[Section 1. The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes.]

[Section 4(d). In enacting any law imposing a tax on or measured by income, the general assembly may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The general assembly shall in any such law set the rate or rates of such tax. The general assembly may in so defining income make exceptions, additions, or modifications to any provisions of the laws of the United States so referred to and for retrospective exceptions or modifications to those provisions which are retrospective.]

14-079

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 11, 2013

RECEIVED
DEC 11 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Brad Ketcher regarding a proposed constitutional amendment to Article III, version 3 (2014-079)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Brad Ketcher on December 10, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

K-079

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 DEC 19 AM 11: 18

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

JASON KANDER
MO SEC. OF STATE

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
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10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the state of Missouri that the Constitution be amended: K1-079

Section A. Article III of the Constitution is revised by amending Sections 12, 19 and 39 and adopting 3 new sections to be known as Article III Sections 16(a), 19(a), and 19(b), to read as follows:

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of two calendar years after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or consultant to a candidate or issue campaign or solicit prospective employers or clients as a paid employee or consultant to a candidate or issue campaign. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

Section 16(a). No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value in excess of five dollars from any lobbyist or lobbyist principal. Senators or representatives, their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. Candidates for senator or representative or offices within the senate or house, including candidates for reelection, may accept campaign contributions consistent with section 19(a) of this article. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records. Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate respectively.

14-079

Section 19(a). 1. The amount of contributions, including cash and in-kind contributions, to a candidate for state senate, state representative or any office within the senate or house made by or accepted from any natural person or independent entity other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of state senator or an office within the senate, one thousand dollars;
(b) To elect an individual to the office of state representative or an office within the house, five hundred dollars;
(c) These contribution limits shall be recalculated on January 1 of even-numbered years by multiplying the original contribution limit by the cumulative consumer price index, as defined by law, for all years since January 1, 2015 and rounding to the nearest twenty-five dollars.

2. Unless the illegal contribution is refunded within ten business days, any person or entity making, accepting or retaining a contribution to a candidate for state senate, state representative or an office within the senate or house in excess of those allowed in subsection 1 shall be subject to:

(a) For the first violation, a civil fine of five thousand dollars plus an amount equal to the illegal contribution.
(b) For the second and subsequent violations, any person or entity knowingly making, accepting or retaining an illegal contribution shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal contribution or both.

3. The legislative contribution limits in subsection 1 shall not apply to a "truly independent expenditure." As used in this section, "truly independent expenditure" means one or more wholly independent expenditures that support the nomination, election, or defeat of a clearly identified candidate that is made without the cooperation or consent of, communication, coordination or consultation with, or the request or suggestion of the candidate, the candidate's committee, the candidate's campaign, the candidate's agents, consultants or advisors. In addition to other penalties of this section, any person or entity who purposefully violates the contribution limits of subsection 1 by making, accepting or facilitating an excessive expenditure that does not meet the requirements for a truly independent expenditure shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal expenditure or both.

4. The penalties in this section do not limit the power of either the house of representatives or the senate to discipline its own members. Nothing in this section shall restrict the general assembly or the People from passing campaign finance requirements that are more restrictive than those in this section.

Section 19(b). No political fund-raising activities or political fund-raising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

Section 39. The general assembly shall not have power:

(1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation;

(2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation;

(3) To grant or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor after service has been rendered or a contract has been entered into and performed in whole or in part;

14-079

(4) To pay or to authorize the payment of any claim against the state or any county or municipal corporation of the state under any agreement or contract made without express authority of law;

(5) To release or extinguish or to authorize the releasing or extinguishing, in whole or in part, without consideration, the indebtedness, liability or obligation of any corporation or individual due this state or any county or municipal corporation;

(6) To make any appropriation of money for the payment, or on account of or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An Act to Audit and Adjust the War Debts of the State," approved March 19, 1874, or any act of a similar nature, until the claim so audited shall have been presented to and paid by the government of the United States to this state;

(7) To act, when convened in extra session by the governor, upon subjects other than those specially designated in the proclamation calling said session or recommended by special message to the general assembly after the convening of an extra session;

(8) To remove the seat of government from the City of Jefferson;

(9) Except as otherwise provided in section 39(b), section 39(c), section 39(e) or section 39(f) of this article, to authorize lotteries or gift enterprises for any purpose, and shall enact laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; except that, nothing in this section shall be so construed as to prevent or prohibit citizens of this state from participating in games or contests of skill or chance where no consideration is required to be given for the privilege or opportunity of participating or for receiving the award or prize and the term "lottery or gift enterprise" shall mean only those games or contests whereby money or something of value is exchanged directly for the ticket or chance to participate in the game or contest. The general assembly may, by law, provide standards and conditions to regulate or guarantee the awarding of prizes provided for in such games or contests under the provision of this subdivision;

(10) To impose a use or sales tax upon the use, purchase or acquisition of property paid for out of the funds of any county or other political subdivision[.];

(11) To prohibit the counting of a genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter.

K-080

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 11 (2014-080)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

K1-080

RECEIVED

2013 DEC 12 PM 1:15

MO SEC. OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
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7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

K1-080

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

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(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

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12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-081

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 12 (2014-081)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-081

RECEIVED

2013 DEC 12 PM 4:17

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____
_____

Notary Public (Seal)

My commission expires _____

14-081

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

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(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

14-081

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-082

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 13 (2014-082)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-082

RECEIVED

2013 DEC 12 PM 1:18

SECRETARY OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

K1-082

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Eight marijuana plants and sixteen ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

14-082

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight marijuana plants and sixteen ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-083

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 14 (2014-083)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-083

RECEIVED

2013 DEC 12 PM 1:19

MO SEC OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-083

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Eight marijuana plants and sixteen ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight marijuana plants and sixteen ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-084

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 15 (2014-084)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-084

RECEIVED

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-084

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

14-084

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

14-084

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

14-084

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-085

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 16 (2014-085)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

K-085

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County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-085

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

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(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

14-085

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-086

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 17 (2014-086)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-086

RECEIVED

2013 DEC 12 PM 4:22

MO SEC OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
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6.	/ /					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-086

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

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(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

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(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-087

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 18 (2014-087)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-087

RECEIVED

2013 DEC 12 PM 4:23

SECRETARY OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

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NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(7) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(8) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(9) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(10) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(11) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(12) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

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(13) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(14) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(15) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(16) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(17) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(18) "Person" includes any individual or entity.

(19) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(20) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(21) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(22) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(23) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(24) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

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(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the

expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

15. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

16. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

17. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-088

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 19 (2014-088)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-088

RECEIVED

2013 DEC 12 PM 4:24

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____
_____

Notary Public (Seal)

My commission expires _____

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NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

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(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

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12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-089

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 13 2013
STATE AUDITORS OFFICE

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 20 (2014-089)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-089

RECEIVED

2013 DEC 12 PM 1:25

SECRETARY OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

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NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

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(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

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13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

STATE AUDITOR'S OFFICE
RECEIVED
DEC 13 2013

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

14-090

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 21 (2014-090)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-090

RECEIVED

2013 OCT 12 PM 4:26

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

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NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Eight marijuana plants and sixteen ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

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(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight marijuana plants and sixteen ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

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12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-091

STATE AUDITOR'S OFFICE
RECEIVED
DEC 13 2013

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 22 (2014-091)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-091

RECEIVED

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

2013 DEC 12 P 4:27

JASON KANDER
MO SEC OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____
_____

Notary Public (Seal)

My commission expires _____

14-091

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(7) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(8) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(9) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(10) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(11) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(12) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

14-091

(13) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(14) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(15) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(16) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(17) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(18) "Person" includes any individual or entity.

(19) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(20) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(21) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(22) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(23) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(24) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

14-091

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the

14-091

expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

15. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

16. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

17. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

STATE AUDITOR'S OFFICE
RECEIVED
DEC 13 2013

ELECTIONS DIVISION
(573) 751-2301

14-092

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 23 (2014-092)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-092

RECEIVED

2013 DEC 12 PM 4:28

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____
_____

Notary Public (Seal)

My commission expires _____

14-092

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

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(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

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12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

STATE AUDITOR'S OFFICE
RECEIVED
DEC 13 2013

K-093

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 24 (2014-093)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-093

RECEIVED

2013 DEC 12 PM 4:29

MO SEC. OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	RECISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-093

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

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(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts,

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

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12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

STATE AUDITOR'S OFFICE
RECEIVED
DEC 13 2013

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

14-094

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 25 (2014-094)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-094

RECEIVED

2013 DEC 12 PM 4:30

SEC. OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

MO SEC. OF STATE
INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-094

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(7) "Household exemption limits" means, at any given time:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(8) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(9) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(10) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(11) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(12) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

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(13) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(14) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(15) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(16) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(17) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(18) "Person" includes any individual or entity.

(19) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(20) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(21) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(22) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(23) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(24) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person in a way not strictly with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, as such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

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(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the

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expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

15. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

16. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

17. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

STATE AUDITOR'S OFFICE
RECEIVED
DEC 13 2013

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

14-095

December 13, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 26 (2014-095)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 12, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-095

RECEIVED

2013 DEC 12 PM 4:31

SECRETARY OF STATE

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

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NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

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(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

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(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

14-095

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-096

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 23 2013
STATE AUDITORS OFFICE

December 23, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-096)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on December 20, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-096

County _____
Page _____

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2013 DEC 20 PM 4:34
JASON KANDER
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-096

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a) A new special assessment in the amount of three point four cents ($0.034) shall be imposed on the sale of every vapor product unit. "Vapor product unit" means point zero five (.05) fluid ounces of material, containing nicotine, which is intended to be consumed through vaporization, but does not include any product regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(b) All revenues generated under this Section 26 shall be used to reduce the individual income tax as further provided Section 27 of this article.

(c) The general assembly, counties and political subdivisions shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor product units, except as imposed on all other taxable tangible property and no existing tax on cigarettes or new tax, license, fee or special assessment shall apply to vapor product units except as provided in Section 26(a) of this Article.

(d) No new or additional tax, license, fee or special assessment upon cigarettes or tobacco products shall be imposed by law, except as provided in this amendment.

(e) The purchase or possession of vapor product units shall be prohibited for any person under the age of eighteen (18).

(f) Any person that, for commercial purposes, operates or maintains a machine that enables any person to process a substance that is made or derived from tobacco into a roll or tube shall be deemed to be a manufacturer of cigarettes and the resulting product shall be deemed to be a cigarette.

(g) In addition to all other taxes imposed on tobacco products an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

Section 27. (a) "Reduction factor" means the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 26 of this Article in any state fiscal year.

(b) The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

(c) If the existing rate of the individual income tax is one tenth of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

14-097

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 23, 2013

RECEIVED
DEC 23 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-097)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on December 20, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-097

County _____
Page _____

RECEIVED
2013 DEC 20 PM 6:35
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-097

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a) In addition to all other taxes imposed on tobacco products, an additional special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes, acquired after the effective date of this amendment, shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith.

(b) A new special assessment in the amount of three point four cents ($0.034) shall be imposed on the sale of every vapor product unit. "Vapor product unit" means point zero five (.05) fluid ounces of material, containing nicotine, which is intended to be consumed through vaporization, but does not include any product regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c) All revenues generated under this Section 26 shall be used to reduce the individual income tax as further provided Section 27 of this article.

(d) The general assembly, counties and political subdivisions shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor product units, except as imposed on all other taxable tangible property and no existing tax on cigarettes or new tax, license, fee or special assessment shall apply to vapor product units except as provided in Section 26(b) of this Article.

(e) No new or additional tax, license, fee or special assessment upon cigarettes or tobacco products shall be imposed by law, except as provided in this amendment.

(f) The purchase or possession of vapor product units shall be prohibited for any person under the age of eighteen (18).

(g) Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

(h) In addition to all other taxes imposed on tobacco products, including the special assessment in section 26(a) of this article, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(i) No person, except a wholesaler, may possess more than 1000 cigarettes unless such person has a retail sales tax license and no person required to have a license may buy or sell tobacco products from an unlicensed person, except that a licensed retailer may sell 1000 or fewer cigarettes to an unlicensed consumer in a single transaction.

(j) To the extent necessary to protect revenue, the Department of Revenue may require manufacturers, wholesalers and retailers of tobacco products to report annually the quantity of cigarettes sold in the preceding year, by brand and brand family.

Section 27. (a) "Reduction factor" means the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 26 of this Article in any state fiscal year.

(b) The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

(c) If the existing rate of the individual income tax is one tenth of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

14-098

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 23, 2013

RECEIVED
DEC 23 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-098)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on December 20, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by § 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-098

County _____

Page _____

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2013 DEC 20 PM 4:36
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-098

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a) In addition to all other taxes imposed on tobacco products, an additional special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes, acquired after the effective date of this amendment, shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith.

(b) A new special assessment in the amount of three point four cents ($0.034) shall be imposed on the sale of every vapor product unit. "Vapor product unit" means point zero five (.05) fluid ounces of material, containing nicotine, which is intended to be consumed through vaporization, but does not include any product regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

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(e) No new or additional tax, license, fee or special assessment upon cigarettes or tobacco products shall be imposed by law, except as provided in this amendment.

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(g) Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

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14-099

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 23, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
DEC 23 2013
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Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-099

County _____

Page _____

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2013 DEC 20 PM 4:58

MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars, or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

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(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

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_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-099

Be it resolved by the people of the State of Missouri that the Constitution be amended:

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Section 26. (a) In addition to all other taxes imposed on tobacco products, an additional special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes, acquired after the effective date of this amendment, shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith.

(b) A new special assessment in the amount of three point four cents ($0.034) shall be imposed on the sale of every vapor product unit. "Vapor product unit" means point zero five (.05) fluid ounces of material, containing nicotine, which is intended to be consumed through vaporization, but does not include any product regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c) All revenues generated under this Section 26 shall be used to reduce the individual income tax as further provided Section 27 of this article.

(d) The general assembly, counties and political subdivisions shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor product units, except as imposed on all other taxable tangible property and no existing tax on cigarettes or new tax, license, fee or special assessment shall apply to vapor product units except as provided in Section 26(b) of this Article.

(e) No new or additional tax, license, fee or special assessment upon cigarettes or tobacco products shall be imposed by law, except as provided in this amendment.

(f) The purchase or possession of vapor product units shall be prohibited for any person under the age of eighteen (18).

(g) Any person that, for commercial purposes, operates or maintains a machine that enables any person to process a substance that is made or derived from tobacco into a roll or tube shall be deemed to be a manufacturer of cigarettes and the resulting product shall be deemed to be a cigarette.

(h) In addition to all other taxes imposed on tobacco products, including the special assessment in section 26(a) of this article, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

Section 27. (a) "Reduction factor" means the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 26 of this Article in any state fiscal year.

(b) The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

(c) If the existing rate of the individual income tax is one tenth of one percent or less, then the individual income tax shall be permanently eliminated and the general assembly shall not have the authority to impose a tax on or measured by income or earnings of an individual.

14-100

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 23, 2013

RECEIVED
DEC 23 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 24 (2014-100)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 23, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-100

County _____
Page No. _____

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2013 DEC 23 AM 9:44
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

	NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.		/ /					
2.		/ /					
3.		/ /					
4.		/ /					
5.		/ /					
6.		/ /					
7.		/ /					
8.		/ /					
9.		/ /					
10.		/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-100

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

14-100

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Four marijuana plants and eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

14-100

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp. Any additional tax revenue authorized by this section on the manufacture, production and delivery of industrial hemp shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-101

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 23, 2013

RECEIVED
DEC 23 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 25 (2014-101)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 23, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-101

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2019 DEC 23 AM 9:45
MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-101

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(7) "Household exemption limits" means, at any given time:

(a) Eight ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(8) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(9) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(10) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(11) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(12) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

14-101

(13) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(14) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(15) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(16) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(17) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(18) "Person" includes any individual or entity.

(19) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(20) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(21) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(22) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(23) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(24) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate not less than fifteen percent and not more than thirty percent of the purchase price. The additional excise tax revenue authorized by this section shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution, nor subject to additional voter approval under section 18(e) of article X of this constitution. In addition, the expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

expenditure of any additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

14. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

15. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

16. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

17. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-102

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 23, 2013

RECEIVED
DEC 23 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I, version 26 (2014-102)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on December 23, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-102

County _____
Page No. _____

RECEIVED
2013 DEC 23 AM 9:46
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes)	(City, Town or Village)	Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
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7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

14-102

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for mental health and substance abuse programs, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Seventy-two ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2015, the division shall promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in paragraph 7 of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation. 14-10.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in paragraph (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Seventy-two ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in paragraph (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with paragraph (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (12) of this subsection may not exceed that for:

(a) An infraction, if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2015, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under paragraphs (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this paragraph (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, paragraphs, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, paragraphs, phrases, and words of this section shall not be affected. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and paragraphs (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2015. The provisions of subsections 1 and 8 of this section and paragraphs (3) and (4) of subsection 5 of this section shall become effective on June 1, 2015. All state laws that are inconsistent with any provision of paragraph (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2015. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or paragraph (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2015. All of the provisions of this section shall be self-enforcing.

14-103

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 24, 2013

RECEIVED
DEC 24 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Steven Reed regarding a proposed constitutional amendment to Article IV (2013-103)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Steven Reed on December 23, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-103

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 DEC 23 AM 10:58
SECRETARY OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DISTR.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____

14-103

Constitutional Amendment to Article IV, Section 30, Relating to Rail Passenger Service,

Be it resolved by the people of the State of Missouri that the Constitution be amended:
Section 30 of article IV of the Constitution of Missouri is amended by adding Section 30(E). The new section includes the following underlined language:
Monies collected from a one tenth of one percent sales tax will be used for the purpose of developing Rail Passenger Service in Missouri including from St. Louis to Rolla, Springfield, Aurora, Billings, Marionville, Republic, Crane, Galena, Reeds Spring, Hollister and Branson with one half of the funding to go to the future development of High Speed Rail between the cities. (Will allow connection of the Chicago Rail Passenger Line to Tulsa and other cities in Texas). A one tenth of one percent sales tax upon or measured by fuel used for propelling motor vehicles (automobiles, trailers, motorcycles, mopeds), is to be levied and collected as provided by law.

14-104

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 24 2013
STATE AUDITORS OFFICE

December 24, 2013

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Steven Reed regarding a proposed constitutional amendment to Article IV (2013-104)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Steven Reed on December 23, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County_____
Page No._____

14-104

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 DEC 23 PM 0:55
MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DISTR.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____

14-104

Constitutional Amendment to Article IV, Section 36, Relating to Technology Parks,

THE PROPOSED AMENDMENT
TO THE CONSTITUTION OF MISSOURI

Be it resolved by the people of the State of Missouri that the Constitution be amended:
Section 36(a) of Article IV of the Constitution of Missouri is amended by modifying Section 36(a). The existing Section 36(a) is set forth hereinafter with the new matter underlined.
Section 36(a). **Economic development, department of - duties of department - director, how appointed.** - The department of economic development shall be in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall administer all programs provided by law relating to the promotion of the economy of the state, the economic development of the state, trade and business, technology development and other activities and programs impacting on the economy of the state.
A state sales tax of one tenth of one percent will provide additional money for the State Economic Development Department to be used solely for the promotion and development of one or more "Technology Parks" in southwest Missouri. Technology Parks serve as incubators helping create new companies, jobs, and research and development. The cities of Ozark, Billings, Joplin, Nixa, Republic, Willard, Springfield and any other legal city will be able to submit request for funding. Funding awards will be based on the Professional Level and Viability of the Proposals submitted by each City and will be judged by the Economic Development office of the State of Missouri. Each City government may elect to have "do we Citizens want a technology park" issue placed on the local election ballot to show the support of their Citizens and that can also be judged by the Economic Development Department of the State of Missouri as an indicator whether the local citizens feel there is a need for such a project. Before the end of the one-year of collection of the said tax, a foundation will be set up and Labor Leaders, Business Leaders, Educational Leaders, and the public at large will be encouraged to contribute to the fund. The tax will sunset or "end" after one year of collections.
This will allow for the "fair and equal treatment" of the citizens of the state. Technology centers and or zones/parks have been created in St. Louis, Fort Leonard Wood, and Kansas City.
The one year sales/use tax of one tenth of one percent (referred to above) is hereby levied and imposed upon all sellers for the privilege of selling tangible personal property or rendering taxable services at retail in this state upon the sales and services which now are or hereafter are listed and set forth in, and, except as to the amount of tax, subject to the provisions of and to be collected as provide in the "Sales Tax Law" and subject to the rules and regulations promulgated in connection therewith; the one year sales/use tax of one tenth of one percent is levied and imposed for the privilege of storing, using or consuming within this state any article of tangible personal property as set forth and provided in the "Compensating Use Tax Law" and, except as to the amount of the tax, subject to the provisions of and to be collected as provided in the "Compensating Tax Law" and subject to the rules and regulations promulgated in connection therewith.

Schedule

Section 36(a) amendment. All of the provisions of 36(a) amendment shall be self-enforcing except that the general assembly shall adjust brackets for the collection of the sales and use taxes. The above one tenth of one percent sales/use tax will sunset one year after imposition.

14-105

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 24, 2013

RECEIVED
DEC 24 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Steven Reed regarding a proposed constitutional amendment to Article IV (2013-105)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Steven Reed on December 23, 2013.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County_____ 14-105
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2013 DEC 23 AM 10:56
MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DISTR.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____

14-105

Constitutional Amendment to Article IV, Section 17, Relating to Recall of Elected State Officers

BE IT RESOLVED BY THE PEOPLE OF THE STATE OF MISSOURI THAT THE CONSITUTION BE AMENDED:

Section 17 of article IV of the Constitution of Missouri is amended by adding Section 17(B). The new section includes the following underlined language:

MISSOURI CONSTITUTION

Section 17(b.) RECALL Elective State Officers

All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require. A voter who casts a vote in an election in accordance with the laws of this State shall have that vote counted.

Recall is the power of the electors to remove an elective officer. Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county.

The Secretary of State shall maintain a continuous count of the signatures certified to that office. An election to determine whether to recall an office rand, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at the next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively. A state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election. The Legislature shall provide for recall of local officers. This section does not affect counties and cities whose charters provide for recall.

14-106

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 21, 2014

RECEIVED
JAN 21 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-106)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 17, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-106

County _____
Page _____

RECEIVED
2014 JAN 17 PM 4:02

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-106

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, a special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes acquired after the effective date of this amendment, shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). In addition to all other taxes imposed on tobacco products, including the special assessment in section 26(a) of this article, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith and such additional rules and regulations as the department of revenue may prescribe. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(d). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(e). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(f). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

14-107

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 21, 2014

RECEIVED
JAN 21 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-107)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 17, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-107

County _____
Page _____

RECEIVED
2014 JAN 17 PM 1:33
JASON KANDER
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-107

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(b). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(c). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(d). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

(e). A non-participating manufacturer shall post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding calendar quarters; it or any person affiliated with it failed to make a full and timely escrow deposit by law, unless the failure was not knowing or reckless and was promptly cured on notice; or, it or any person affiliated with it was removed from the state directory of any state during any of the five preceding calendar years, unless the removal was determined to have been erroneous or illegal. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment.

(f). The bond required by this amendment shall be posted at least ten days in advance of each calendar quarter as a condition to the non-participating manufacturer and its brand families being included in the state directory for that quarter. The amount of the bond shall be the greater of (i) the greatest required escrow amount due from the non-participating manufacturer or its predecessor for any of the twelve preceding calendar quarters or (ii) $25,000. The bond shall be written in favor of the state of Missouri and shall be conditioned on the performance by the non-participating manufacturer of all of its duties and obligations under this amendment. The bond shall remain in effect for twenty-four (24) months from the date posted.

(g). If any non-participating manufacturer fails to perform the duties and obligations on which the bond is conditioned, the state shall be authorized to execute on the bond, first to recover any amounts the non-participating manufacturer failed to place into escrow as required by this amendment, then to recover penalties and attorneys' fees.

14-108

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 21, 2014

RECEIVED
JAN 21 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-108)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 17, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-108

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

2014 JAN 17 PM 1:34

INITIATIVE PETITION



To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-108

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, a special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes is imposed upon cigarettes acquired by wholesalers after the effective date of this amendment. This assessment shall be paid by the wholesaler and collected in the same way, and subject to the same rules and regulations, as other cigarette taxes collected by the department of revenue.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(d). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(e). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

(f). A non-participating manufacturer shall post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding calendar quarters; it or any person affiliated with it failed to make a full and timely escrow deposit by law, unless the failure was not knowing or reckless and was promptly cured on notice; or, it or any person affiliated with it was removed from the state directory of any state during any of the five preceding calendar years, unless the removal was determined to have been erroneous or illegal. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment.

(g). The bond required by this amendment shall be posted at least ten days in advance of each calendar quarter as a condition to the non-participating manufacturer and its brand families being included in the state directory for that quarter. The amount of the bond shall be the greater of (i) the greatest required escrow amount due from the non-participating manufacturer or its predecessor for any of the twelve preceding calendar quarters or (ii) $25,000. The bond shall be written in favor of the state of Missouri and shall be conditioned on the performance by the non-participating manufacturer of all of its duties and obligations under this amendment. The bond shall remain in effect for twenty-four (24) months from the date posted.

(h). If any non-participating manufacturer fails to perform the duties and obligations on which the bond is conditioned, the state shall be authorized to execute on the bond, first to recover any amounts the non-participating manufacturer failed to place into escrow as required by this amendment, then to recover penalties and attorneys' fees.

14-109

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 21, 2014

RECEIVED
JAN 21 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-109)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 17, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

K-109

County _____
Page _____

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2014 JAN 17 PM 2:35
SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended: 14-109

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage, rounded to the nearest tenth of one percent but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith and such additional rules and regulations as the department of revenue may prescribe. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(d). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(e). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

14-110

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 27, 2014

RECEIVED
JAN 27 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-110)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 24, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-110

RECEIVED
2014 JAN 24 PM 2:36
SEC OF STATE

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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igned this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each as stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered oter of the state of Missouri and _____ County.

_____ _____

Signature of Affiant (Person obtaining signatures) Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ _____

Signature of Notary Address of Notary

Notary Public (Seal) My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended: 14-110

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, a special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes acquired after the effective date of this amendment, shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). In addition to all other taxes imposed on tobacco products, including the special assessment in section 26(a) of this article, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith and such additional rules and regulations as the department of revenue may prescribe. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(d). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(e). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(f). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

14-111

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

January 27, 2014

RECEIVED
JAN 27 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-111)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 24, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-111

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2014 JAN 24 PM 2:57
SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

14-111

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, a special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes is imposed upon cigarettes acquired by wholesalers after the effective date of this amendment. This assessment shall be paid by the wholesaler and collected in the same way, and subject to the same rules and regulations, as other cigarette taxes collected by the department of revenue.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(d). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(e). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

(f). A non-participating manufacturer shall post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding calendar quarters; it or any person affiliated with it failed to make a full and timely escrow deposit by law, unless the failure was not knowing or reckless and was promptly cured on notice; or, it or any person affiliated with it was removed from the state directory of any state during any of the five preceding calendar years, unless the removal was determined to have been erroneous or illegal. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment.

(g). The bond required by this amendment shall be posted at least ten days in advance of each calendar quarter as a condition to the non-participating manufacturer and its brand families being included in the state directory for that quarter. The amount of the bond shall be the greater of (i) the greatest required escrow amount due from the non-participating manufacturer or its predecessor for any of the twelve preceding calendar quarters or (ii) $25,000. The bond shall be written in favor of the state of Missouri and shall be conditioned on the performance by the non-participating manufacturer of all of its duties and obligations under this amendment. The bond shall remain in effect for twenty-four (24) months from the date posted.

(h). If any non-participating manufacturer fails to perform the duties and obligations on which the bond is conditioned, the state shall be authorized to execute on the bond, first to recover any amounts the non-participating manufacturer failed to place into escrow as required by this amendment, then to recover penalties and attorneys' fees.

14-112

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 27 2014
STATE AUDITORS OFFICE

January 27, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-112)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 24, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-112

County _____
Page _____

RECEIVED
2014 JAN 27 PM 2:58
JASON KANDER
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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igned this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each as stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered oter of the state of Missouri and _____ County.

_____ _____

Signature of Affiant (Person obtaining signatures)

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ _____

Signature of Notary

Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended: 14-112

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith and such additional rules and regulations as the department of revenue may prescribe. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(d). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(e). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

14-113

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 27 2014
STATE AUDITORS OFFICE

January 27, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-113)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 24, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-113

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2014 JAN 24 PM 2:39
MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

H-113

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(b). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(c). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(d). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

(e). A non-participating manufacturer shall post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding calendar quarters; it or any person affiliated with it failed to make a full and timely escrow deposit by law, unless the failure was not knowing or reckless and was promptly cured on notice; or, it or any person affiliated with it was removed from the state directory of any state during any of the five preceding calendar years, unless the removal was determined to have been erroneous or illegal. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment.

(f). The bond required by this amendment shall be posted at least ten days in advance of each calendar quarter as a condition to the non-participating manufacturer and its brand families being included in the state directory for that quarter. The amount of the bond shall be the greater of (i) the greatest required escrow amount due from the non-participating manufacturer or its predecessor for any of the twelve preceding calendar quarters or (ii) $25,000. The bond shall be written in favor of the state of Missouri and shall be conditioned on the performance by the non-participating manufacturer of all of its duties and obligations under this amendment. The bond shall remain in effect for twenty-four (24) months from the date posted.

(g). If any non-participating manufacturer fails to perform the duties and obligations on which the bond is conditioned, the state shall be authorized to execute on the bond, first to recover any amounts the non-participating manufacturer failed to place into escrow as required by this amendment, then to recover penalties and attorneys' fees.

14-114

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 28, 2014

RECEIVED
JAN 28 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Tony Nenninger regarding a proposed constitutional amendment to Article I (2014-114)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Tony Nenninger on January 27, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-114

County
Page No.

RECEIVED
2014 JAN 27 PM 3:49
JASON KANDER
SECRETARY OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of Section 560.021 R.S.Mo., to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his own, or knowingly to sign his name more than once for the same measure for the same election, or to sign a petition when he knows he is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 6th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my street address and the name of the city, town, or village in which I live are correctly written after my name.

Shall the Missouri Constitution be amended to:

OFFICIAL BALLOT TITLE, LANGUAGE, AND FISCAL NOTE WILL BE PUT HERE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address, and city, town, or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant (person obtaining signatures)

_____
_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, _____, A.D.

_____
Signature of Notary

Notary Public (Seal)
My commission expires: _____

_____
_____
Address of Notary

14-114

Be it resolved by the people of the State of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

The purpose of this section is to legalize, regulate, and tax the use of marijuana for medical and adult recreational purposes and to regulate marijuana separately from agricultural and industrial production of cannabis hemp.

The people of the State of Missouri intend that this section and the rules, regulations, and laws promulgated and enacted pursuant to this section will:

(1) Guarantee the right of all patients with a medical condition to use medical marijuana when a health care provider licensed to prescribe medications advises that such use may provide a medical benefit to them;

(2) Guarantee the right of farmers and businesses to produce and manufacture cannabis hemp and products made from cannabis hemp;

(3) Guarantee the right of persons over 21 years of age to engage in use, possession, production, intrastate transportation, and distribution of marijuana, subject to reasonable regulations by state government pursuant to this section;

(4) Expunge all government records of, reduce the punishments for, and restore the civil status of prior marijuana law offenders;

(5) Promote vital state interests in regulation of the sale and distribution of marijuana in order to:

(a) Prevent illegal underage use of marijuana and prevent marijuana advertising from being targeted at underage persons;

(b) Maintain an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(c) Raise tax revenue from the production and sale of marijuana and allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans; elementary, secondary, and higher education; the cities and counties of this state; mental health and substance abuse programs; and for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(d) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(e) Prevent violence and the illegal use of firearms in the cultivation and distribution of marijuana;

(f) Prevent marijuana related activities that are legal under state law from being used as a cover or pretext for other illegal activity;

(g) Prevent illegal diversion of marijuana into or from this state or onto federal property;

(h) Prevent driving, operating dangerous machinery, and performing important tasks while impaired by marijuana;

(i) Prevent illegal growing of marijuana on public lands;

(j) Encourage the federal government to have faith in the states' ability to eliminate the problems associated with uncontrolled criminal manufacture, production, delivery, and possession of marijuana.

Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2)"Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5)"Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia;

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Impaired" means inability to safely or effectively operate a vehicle or other machinery or perform some other vital task.

(9) "Industrial hemp" means all male cannabis plants, all female cannabis plants that have not flowered for more than ten days, and all cannabis, whether growing or not, that contains not more than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local government body, agency, or official.

(11) "Licensee" means any person who holds a marijuana license for manufacturing, producing, processing, wholesale purchase or sale, transportation,delivery, of marijuana, marijuana products, marijuana concentrtates, marijuana extracts, or marijuana paraphernalia.

(12) "Manufacture" means the production, preparation, propagation, compounding, or processing of marijuana paraphernalia or of marijuana, marijuana products, marijuana concentrates, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging and repackaging of the substance and labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, that contain more than one percent tetrahydrocannabinol, but does not include marijuana concentrates, marijuana extracts, marijuana products, or cannabis defined as industrial hemp.

(14) "Marijuana concentrate" means a product obtained by separating resins from marijuana by sifting, compression, heat, cold, and/or with non-volatile solvents such as water, ice, dry ice, vegetable glycerin, plant oils, and dairy products.

(15) "Marijuana extract" means a product obtained by separating resins from marijuana using volatile solvents such as butane, hexane, isopropyl alcohol, ethanol, or with the use of extremely high pressure or other dangerous technology.

(16) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia.

(17) "Marijuana paraphernalia" means all equipment, products, substances, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing marijuana, marijuana products, marijuana concentrates, or marijuana extracts into the body.

(18) "Marijuana products" means products that contain marijuana, marijuana concentrates, or marijuana extracts and are meant for consumption, but does not mean marijuana by itself, marijuana concentrate by itself, or marijuana extract by itself.

(19) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(20) "Person" includes any individual or entity.

(21) "Personal exemption limits" means at any given time for any consumer who is at least twenty-one years of age:

(a) Three hundred sixty-five grams of useable marijuana, provided that not more than thirty-five grams is possessed outside of a person's bona fide residence; and

(b) 90 grams of marijuana concentrates or extracts that contain fifty percent or less tetrahydrocannabinol, provided that not more than five grams is possessed outside of a person's bona fide residence; and

(c) 45 grams of marijuana concentrates or extracts that contain more than fifty percent tetrahydrocannabinol, provided that not more than three grams is possessed outside the person's bona fide residence; and

(d) any amount of marijuana products in solid or liquid form, provided that the amount of marijuana used to produce them does not exceed three hundred sixty-five grams of useable marijuana and provided that not more marijuana products than were derived from thirty-five grams or less is possessed outside of a person's bona fide residence; and

(e) six living female marijuana plants after they have displayed flowers for ten days, provided the consumer has been a bona fide resident of the state for at least one year; and

(f) possession or manufacture of any amount of industrial hemp.

(22) "Person twenty-one years of age or older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(23) "Produce" or "production" includes the manufacture, planting, cultivation, growing, curing, or harvesting of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia.

(24) "Public place" means places developed for the general public to have access to, and includes but is not limited to: hallways, lobbies, and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence; highways, streets, alleys, sidewalks, and other right of ways with improved surfaces for public travel; premises and facilities used in connection with public passenger transportation; open parts of public office buildings; open parts of all public schools and private schools who serve primarily persons under twenty-one years of age; playgrounds, picnic areas, and other developed areas of parks and other publicly owned land; and all indoor areas of any business that is open to the general public; but does not include any business with a marijuana license or any church or religious assembly where consumption of marijuana is part of the exercise of individuals' sincerely held religious beliefs.

(25) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(26) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(27) "Useable marijuana" means fully dried female flowers and leaves of marijuana or any mixture thereof, but does not include seeds or parts that contain less than one percent tetrahydrocannabinol.

Except as otherwise provided in this section, no state law shall:

(1) Prohibit the medical use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia;

(2) Prohibit the agricultural cultivation, purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of industrial hemp;

(3) Prohibit the possession or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(5) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(6) Impose a presumption of liability, culpability, negligence, being under the influence, intoxication, or any kind of impairment because of marijuana use or the presence of any amount of marijuana or marijuana metabolites in the body without independent evidence based on objective criteria that are applied in a non-discriminatory manner to all factors in

making such determinations;
(7) Provide for the seizure or forfeiture of any property because it was used in connection with any purchase, sale, manufacturing, production, processing, transportation,delivery, possession, or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia, or industrial hemp if such activity is lawful under state law; or
(8) Authorize any expenditures or other assistance to the enforcement of laws of another jurisdiction that prohibit acts that are made lawful under this section, including maintenance of any license issued to any person who attempts to circumvent the purposes of this section by assisting in the enforcement of laws of another jurisdiction that prohibit acts made lawful by this section.

Nothwithstanding sub-section 4 of this section, a state law may:
(1) Prohibit illegal importation and exportation of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia into and out of this state;
(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in or on, or within one thousand feet of real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;
(3) Prohibit the operation of a passenger or commercial vehicle, watercraft, aircraft, railroad train, heavy equipment, or other similar dangerous machinery while impaired by marijuana;
(4) Authorize the least restrictive non-prohibitive regulations of medical marijuana use that are necessary to further the state's compelling interests in issuing licenses; disciplining public officials and professionals; protecting prisoners, probationers, and parolees; and preserving the peace without discrimination in housing, employment, and public accommodations;
(5) Impose an excise tax on the first fair market sale of marijuana produced in this state at a rate of twenty-five percent of the purchase price;
(6) Prohibit the use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in a public place, except that the penalty for violation of such a law shall not exceed that for an infraction;
(7) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with sub-section 6 of this section and classify the penalties for violations of such laws, provided that no penalty for any offense based on facts relating to any marijuana use, manufacture, or transaction shall be greater than that for the lowest classification of felony.

Subject to the provisions of subsection 7 of this section, on or before June 1, 2015 the division shall promulgate rules and regulations, and the general assembly may enact laws, that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:
(1) Require a person to obtain a marijuana license to purchase wholesale, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia for commercial purposes;
(2) Provide for the enforcement of laws regulating licensees and for the examination and inspection of the books, records, and premises of licensees;
(3) Regulate the advertising of marijuana, marijuana products, marijuana concentrates, marijuana extracts, and marijuana paraphernalia;
(4) Provide for the collection of the excise tax provided in paragraph (5) of subsection 5 of this section;
(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license fees collected as follows:
(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;
(b) Next, the remainder of such funds to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and
(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph (5) of subsection 5 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding;
(6) Limit the amount of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia that a person, other than a licensee, may possess at any given time; provided however that the penalty for violation of any such law may not exceed that for an infraction for a first violation and a misdemeanor for any second and subsequent violation.

No state law or combination of state laws shall:
(1) Prohibit any qualifying individual from using medical marijuana;
(2) Limit the amount of industrial hemp a person may possess or manufacture;
(3) Impose any tax on, or discrimination in administration of subsidies or other programs relating to, industrial hemp or marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia or transactions involving industrial hemp, marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia that is not imposed on other products generally, except for the tax provided in paragraph (5) of subsection 5 of this section and reasonable administrative fees for licensees;
(4) Limit the amount of marijuana, marijuana products, marijuana concentrates, or marijuana extracts that consumers over the age of twenty-one may manufacture or possess for noncommercial use at any given time to amounts less than:
(a) Three hundred sixty-five grams of useable marijuana, provided that not more than thirty-five grams is possessed outside of a person's bona fide residence; and
(b) 90 grams of marijuana concentrates or extracts that contain fifty percent or less tetrahydrocannabinol, provided that not more than five grams is possessed outside of a person's bona fide residence; and
(c) 45 grams of marijuana concentrates or extracts that contain more than fifty percent tetrahydrocannabinol, provided that not more than three grams is possessed outside the person's bona fide residence; and
(d) any amount of marijuana products in solid or liquid form, provided that the amount of marijuana used to produce them does not exceed three hundred sixty-five grams of useable marijuana and provided that not more marijuana products than were derived from thirty-five grams or less is possessed outside of a person's bona fide residence; and
(e) six living female marijuana plants after they have displayed flowers for ten days, provided the consumer has been a bona fide resident of the state for at least one year;
(5) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;
(6) Limit the number of marijuana licenses granted to the same person;
(7) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;
(8) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or is not a resident of this state;
(9) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense specified in paragraphs (1) or (2) of subsection 10 of this section; or (ii) any marijuana-related offense that has been expunged;
(10) Require a person twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia, or industrial hemp within the personal exemption limits;
(11) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;
(12) Require any marijuana retailer to record the name or any other identifiable information of any consumer twenty-one years of age or older;
(13) Require any individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia for no consideration to another person twenty-one years of age or older, if:
(a) the marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia was purchased from a licensed marijuana retailer; or
(b) the marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia were produced by a person without a license in accordance with paragraph (14) of this subsection;
(14) Require an individual twenty-one years of age or older to obtain a license, pay any tax, or be subjected to any laws that are not the least restrictive means necessary to further compelling state interests in order to possess or manufacture marijuana, marijuana products, marijuana concentrates, or marijuana paraphernalia for noncommercial uses if the aggregate amounts of marijuana, marijuana products, or marijuana concentrates do not exceed the personal exemption limits; but provided that manufacture of marijuana extracts may require a license for non-commercial or commercial use;
(15) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (14) of this subsection may exceed that for:
(a) An infraction if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;
(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or
(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;
(16) Provide that the penalty for violation of any other offense that is based on marijuana possession or transactions be punishable by more than that authorized for the lowest classification of felony;
(17) Make the ownership or operation of an industrial hemp business or licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct business.

8. On or before June 15, 2015 the department shall promulgate rules and regulations, and the general assembly may enact laws, that:
(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, marijuana concentrates, or marijuana extracts to be able to discuss freely with their health care providers the possible risks and benefits of medical marijuana use and have the benefit of their health care providers' advice;
(2) Protect medical marijuana consumers and their health care providers from being subjected to any criminal or civil penalties or discrimination regarding impeachment or removal from office; employment; housing; education; public accommodations; child custody, guardianships, foster care, and adoptions; organ transplants and other health care when a health

care provider who is licensed and certified to write prescriptions for any medication, including a veterinarian providing bona fide care for an animal owned by a consumer who is 21 years of age or older, advises that such use may provide a medical benefit to the patient, subject however to narrowly tailored regulations that authorize the least restrictive means of furthering compelling state interests under particular circumstances;

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, marijuana concentrates, or marijuana extracts for medical purposes unless such individual's custodial parent or legal guardian responsible for making health care decisions consents to such use.

(4) Seek reciprocal recognition of medical marijuana consumers with other states that authorize use of medical marijuana;

(5) Assure that personally identifying information about medical marijuana consumers and their health care providers is not subject to public disclosure.

No licensed health care provider may be subjected to any criminal or civil penalty, or to discipline from any state licensing division, board, or commission, for:

(1) Advising that a patient whom the health care provider has diagnosed as having a medical condition, or a patient whom the health care provider knows has been so diagnosed by another licensed health care provider, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the causes, symptoms, or effects of the patient's medical condition, provided the advice is based on the health care provider's personal assessment of the patient's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such assessment and advice.

0. Convictions for marijuana or industrial hemp offenses that occurred prior to the effective date of this section shall be expunged and penalties retroactively reduced as follows:

(1) An individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has pleaded guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana related offense that occurred prior to the date the application for expungement was filed, the court shall enter an order of expungement, provided however that the expungement proceeding shall be stayed pending the outcome of any pending marijuana related charge stemming from an alleged offense that occurred prior to filing the application for expungement.

(3) An individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable pursuant to paragraph (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an order of expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more orders of expungement pursuant to this paragraph (3).

(4) The filing fee for application for an order of expungement pursuant to this subsection shall not exceed the normal fee for filing a civil petition in the circuit court.

(5) The effects of an order of expungement shall be to order destruction of all government records of the marijuana offense arrest, plea, trial, or conviction and to restore the applicable individual to the status he or she occupied prior to such arrest, plea, trial, or conviction as if such event had never happened, including but not limited to: full restoration of such offender's voting, jury, firearms, licensure, and any other civil rights or privileges that were forfeited or compromised because of the expunged offense. No individual as to whom such order has been entered shall be charged thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of him or her for any purpose whatsoever.

(6) If an applicant petitioning for expungement of an expungeable marijuana offense alleges that he or she is currently restrained of liberty by virtue of jail, imprisonment, probation, parole, or otherwise restrained of his or her liberty the case shall be expedited and proceed by writ of habeas corpus. Such a person imprisoned or in jail, on probation or parole, or otherwise restrained of his or her liberty shall be released from such restraint immediately upon issuance of the applicable order or orders of expungement.

(7) A person who is in jail, prison, on probation, on parole, or otherwise currently restrained of his or her liberty because of any non-expungeable offense or alleged offense that is based on marijuana possession, use, or transactions who has been detained for a period of time or is being held pursuant to a sentence that is longer than that authorized for the lowest classification of felony may apply for an order of expungement pursuant to this subsection and shall be ordered released immediately or at some definite time before the maximum imprisonment authorized for punishment of the lowest classification of felony and shall be released upon granting of an order of expungement pursuant to this subsection; however, records of the offense shall not be destroyed, but may be closed to the public if the court determines closing the records is in the interests of justice.

1. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using industrial hemp, marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia is prohibited by federal law.

2. Nothing in this section shall be construed to:

(1) Affect any federal or state law that permits an owner, lessor, lessee, or any other person who has a legal interest in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(2) Require a person to violate a federal law; or

(3) Exempt a person from a federal law.

3. The Attorney General is authorized and directed to advocate for waivers of or exceptions to all federal laws inconsistent with this section and to seek expungement of records of expunged offenses that are maintained by another jurisdiction.

4. The Governor is authorized and directed to advocate for the federal government to waive or amend all laws inconsistent with this section.

5. The general assembly may enact laws to regulate industrial hemp and marijuana that are not inconsistent with this section.

6. The division is authorized and directed to make, administer, and enforce rules and regulations that are not inconsistent with this section.

7. The department is authorized and directed to make, administer, and enforce rules and regulations that are not inconsistent with this section.

8. All provisions of this section shall be self-enforcing. This section will become effective thirty days after the election approving this section.

9. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, illegal, or void. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. If any subsections, paragraphs, phrases, or words of this section are held to be unconstitutional, illegal, or void, either on their face or as applied, the constitutionality, legality, and applicability of any and all other subsections, paragraphs, phrases, and words shall not be affected.

20. All state laws that are inconsistent with this section shall no longer be in force and effect insofar as they are inconsistent with this section. Insofar as they are applied to industrial hemp or marijuana, this section may implicitly repeal or amend the following statutes:

(1) Sections 1.170; 1.180; 105.1105; 105.1108; 105.1112; 324.041; 324.086; 331.060; 332.321; 333.330; 334.100; 334.102; 334.103; 334.107; 334.613; 334.616; 335.066; 336.110; 337.035; 337.330; 337.525; 337.630; 337.730; 338.013; 338.055; 338.065; 338.380; 339.100; 340.264; 340.274; 441.830; 486.385; 487.050; 577.500.1(3); 577.505; 590.080; 590.090; 590.100; 630.170; 578.315; 558.011.4(2); 632.505.3(3) by protecting medical marijuana consumers and their health care providers from any criminal or civil penalties or discrimination in: public employee hiring and discipline; professional and other licensure; employment, housing, education, public benefits, and public accommodations; organ transplants and other health care; and terms of probation, incarceration, or parole;

(2) Section 263.250 by legalizing agricultural and industrial hemp and thereby removing cannabis from the list of noxious weeds;

(3) Sections 195.010.(17)(g and l), (24), (40); 195.015.4; 195.017.2(1)(4)(w, ee, and ll); 195.202.; 195.211; 195.222; 195.223 by removing marijuana and marijuana paraphernalia from the list of controlled substances and legalizing their use, possession, production and distribution;

(4) Sections 195.275; 195.285; 195.291; 195.212; 195.213; 195.292; 195.295; 195.296; 195.320 ; 556.031; 558.016; 558.019; 568.045; 578.421(2)(d) by annulling or modifying application of statutes authorizing a criminal penalty for marijuana offenses;

(5) Sections 1.160; 610.120; 610.126.2 by expunging and destroying government records of marijuana law offenders and releasing marijuana law offenders from incarceration, probation, and parole;

(6) Sections 195.190; 195.195; 548.021 by prohibiting state expenditures or resources to cooperate with other states' or federal marijuana prohibition laws;

(7) Sections 306.110; 306.111.5; 306.116; 306.117; 571.070; 571.072; 577.001.3; 577.010; 577.020; 577.023(4); 577.037; 577.041.2(1)(a); 577.049; 577.203; 577.206; 577.214; 577.217; 577.221 by not presuming liability, culpability, negligence, being under the influence, intoxication, or any kind of impairment because of marijuana use or the presence of marijuana in a person's body.

(8) Article V, Section 24 and Article VII, Section 1 of the Constitution may be implicitly amended by protecting judges and elected officials from the civil penalties of discipline, impeachment, or removal from office if they are qualified medical marijuana consumers even if they are in violation of federal law.

14-115

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 29, 2014

RECEIVED
JAN 29 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-115)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 28, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-115

County _____
Page _____

RECEIVED
2014 JAN 28 PM 3:19
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
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10.					
11.					
12.					
13.					
14.					
15.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27. H-115

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, a special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes acquired after the effective date of this amendment, shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). In addition to all other taxes imposed on tobacco products, including the special assessment in section 26(a) of this article, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith and such additional rules and regulations as the department of revenue may prescribe. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(d). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(e). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(f). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

14-116

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 29, 2014

RECEIVED
JAN 29 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-116)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 28, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-116

County _____
Page _____

RECEIVED
2014 JAN 28 PM 3:50
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27. 14-116

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith and such additional rules and regulations as the department of revenue may prescribe. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(d). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(e). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

K-117

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 29, 2014

RECEIVED
JAN 29 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Karen Runk (2014-117)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample filed by Karen Runk on January 29, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-17

RECEIVED
2014 JAN 29 PM 1:51

We, the citizens of Missouri, petition the state to prohibit breed specific legislation in the state of Missouri.

The following states all have laws that prohibit local governments from enacting breed-specific legislation or have statements saying that BSL may not hold up in court: California, Colorado, Florida, Illinois, Main, Minnesota, New Jersey, New York, Oklahoma, Pennsylvania, Texas, Virginia, and Washington. California's code: Nothing in this chapter shall be construed to prevent a city or county from adopting or enforcing its own program for the control of potentially dangerous or vicious dogs that may incorporate all, part, or none of this chapter, or that may punish a violation of this chapter as a misdemeanor or may impose a more restrictive program to control potentially dangerous or vicious dogs, provided that no program shall regulate these dogs in a manner that is specific as to breed.

Breed specific legislation has been proven to be an inefficient way to handle dangerous and/or aggressive dogs. Dogs should be deemed dangerous and/or aggressive/vicious based on their behavior and not their appearance. Also, the term "pit bull" is very vague and can include breeds that have no bully breed in them. These breed bans have caused the stereotype to worsen on the American Pit Bull Terrier and other bully breeds that are deemed "pits." They are prejudice and wrong. Officials should be able to deem dogs dangerous by behavior.

An example of a correct ordinance is in Boone County MO. They define a NUISANCE DOG as a dog of any breed which repeatedly demonstrates threatening behavior by growling, or lunging, or chasing, or baring teeth, towards an individual or individuals, or bicyclists, or motor vehicles, or domesticated animals or livestock off the Owner's property. They define a VICIOUS DOG as Any dog of any breed which without provocation or command demonstrates a pattern of unequivocal viciousness, bites or injures a human being or exhibits a pattern of behavior of biting or attacking or attempting to bite or attack human beings at any location or inappropriately attacks animals off the owner's or possessor's property. No dog shall be defined or considered vicious if the dog is working for a law enforcement agency or any law enforcement officer in the performance of law enforcement work, or is protecting its owner or possessor's person or premises from someone committing a crime. No dog shall be defined or considered vicious solely because of its breed.

Many studies have been done and have all proved the same result: Breed Specific Legislation is inefficient and wrong. There are many ways to still protect the public from dangerous dogs while allowing the innocent dogs to remain in their families. A dog doesn't deserve to be judged by its appearance just like people don't deserve to be judged by the color of their skin.

14-117

NAME	ADDRESS	PHONE	SIGNATURE

14-118

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 31, 2014

RECEIVED
JAN 3 1 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-118)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 30, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-118 County _____
Page _____

RECEIVED
2014 JAN 30 PM 2:43
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

14-18

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith and such additional rules and regulations as the department of revenue may prescribe. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(d). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(e). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

14-119

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 31, 2014

RECEIVED
JAN 3 1 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-119)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 30, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-119

County _____
Page _____

RECEIVED
2014 JAN 30 PM 2:46
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

14-119

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, a special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes acquired after the effective date of this amendment, shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). In addition to all other taxes imposed on tobacco products, including the special assessment in section 26(a) of this article, an equity assessment fee is imposed upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of non-participating manufacturer cigarettes at the rate of fifty-five cents ($0.55) per package of twenty (20) cigarettes, which equity assessment fee shall be paid by the wholesaler, and collected in the same way as other cigarette taxes by the department of revenue and subject to the rules and regulations promulgated in connection therewith and such additional rules and regulations as the department of revenue may prescribe. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment. The equity assessment fee in this subsection shall be indexed to the general price level as defined in Section 17 of this article.

(d). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(e). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(f). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

14-120

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 31 2014
STATE AUDITORS OFFICE

January 31, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-120)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 30, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

K-1-20

County _____
Page _____

RECEIVED
2014 JAN 30 PM 2:47

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

Jason Kander
MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

_____
Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

14-120

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, a special assessment of seventeen cents ($0.17) per package of twenty (20) cigarettes is imposed upon cigarettes acquired by wholesalers after the effective date of this amendment. This assessment shall be paid by the wholesaler and collected in the same way, and subject to the same rules and regulations, as other cigarette taxes collected by the department of revenue.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(d). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(e). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

(f). A non-participating manufacturer shall post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding calendar quarters; it or any person affiliated with it failed to make a full and timely escrow deposit by law, unless the failure was not knowing or reckless and was promptly cured on notice; or, it or any person affiliated with it was removed from the state directory of any state during any of the five preceding calendar years, unless the removal was determined to have been erroneous or illegal. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment.

(g). The bond required by this amendment shall be posted at least ten days in advance of each calendar quarter as a condition to the non-participating manufacturer and its brand families being included in the state directory for that quarter. The amount of the bond shall be the greater of (i) the greatest required escrow amount due from the non-participating manufacturer or its predecessor for any of the twelve preceding calendar quarters or (ii) $25,000. The bond shall be written in favor of the state of Missouri and shall be conditioned on the performance by the non-participating manufacturer of all of its duties and obligations under this amendment. The bond shall remain in effect for twenty-four (24) months from the date posted.

(h). If any non-participating manufacturer fails to perform the duties and obligations on which the bond is conditioned, the state shall be authorized to execute on the bond, first to recover any amounts the non-participating manufacturer failed to place into escrow as required by this amendment, then to recover penalties and attorneys' fees.

14-121

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 31, 2014

RECEIVED
JAN 3 1 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article X (2014-121)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Marc Ellinger on January 30, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-121

County _____
Page _____

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2014 JAN 30 PM 2:48

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

Jason Kander
MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the State of Missouri that the Constitution be amended:

14-121

Article X is amended by adopting two new sections to be known as Sections 26 and 27.

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). "Reduction factor" means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. "Vapor product material" means a solution containing nicotine suitable for use in a vapor product. "Vapor product" means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(b). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(c). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(d). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

(e). A non-participating manufacturer shall post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding calendar quarters; it or any person affiliated with it failed to make a full and timely escrow deposit by law, unless the failure was not knowing or reckless and was promptly cured on notice; or, it or any person affiliated with it was removed from the state directory of any state during any of the five preceding calendar years, unless the removal was determined to have been erroneous or illegal. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. "Non-participating manufacturer" shall be as defined by law on the effective date of this amendment.

(f). The bond required by this amendment shall be posted at least ten days in advance of each calendar quarter as a condition to the non-participating manufacturer and its brand families being included in the state directory for that quarter. The amount of the bond shall be the greater of (i) the greatest required escrow amount due from the non-participating manufacturer or its predecessor for any of the twelve preceding calendar quarters or (ii) $25,000. The bond shall be written in favor of the state of Missouri and shall be conditioned on the performance by the non-participating manufacturer of all of its duties and obligations under this amendment. The bond shall remain in effect for twenty-four (24) months from the date posted.

(g). If any non-participating manufacturer fails to perform the duties and obligations on which the bond is conditioned, the state shall be authorized to execute on the bond, first to recover any amounts the non-participating manufacturer failed to place into escrow as required by this amendment, then to recover penalties and attorneys' fees.

14-122

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 31, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
JAN 3 1 2014
STATE AUDITORS OFFICE

RE: Petition approval request from Tony Nenninger regarding a proposed constitutional amendment to Article I (2014-122)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Tony Nenninger on January 30, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-122

RECEIVED

2014 JAN 30 PM 3:44

MO SEC. OF STATE

County

Page No.

It is a class A misdemeanor punishable, notwithstanding the provisions of Section 560.021 R.S.Mo., to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his own, or knowingly to sign his name more than once for the same measure for the same election, or to sign a petition when he knows he is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my street address and the name of the city, town, or village in which I live are correctly written after my name.

Shall the Missouri Constitution be amended to:

OFFICIAL BALLOT TITLE, LANGUAGE, AND FISCAL NOTE WILL BE PUT HERE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR .DIST.	NAME (Printed or Typed)
1					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address, and city, town, or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant (person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, _____, A.D.

_____
Signature of Notary

Notary Public (Seal)

My commission expires: _____

_____

_____
Address of Notary

H-122

Be it resolved by the people of the State of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. The purpose of this section is to legalize, regulate, and tax the use of marijuana for medical and adult recreational purposes and to regulate marijuana separately from agricultural and industrial production of cannabis hemp.

2. The people of the State of Missouri intend that this section and the rules, regulations, and laws promulgated and enacted pursuant to this section will:
(1) Guarantee the right of all patients with a medical condition to use medical marijuana when a health care provider licensed to prescribe medications advises that such use may provide a medical benefit to them;
(2) Guarantee the right of farmers and businesses to produce and manufacture cannabis hemp and products made from cannabis hemp;
(3) Guarantee the right of persons over 21 years of age to engage in use, possession, production, intrastate transportation, and distribution of marijuana, subject to reasonable regulations by state government pursuant to this section;
(4) Expunge all government records of, reduce the punishments for, and restore the civil status of prior marijuana law offenders;
(5) Promote vital state interests in regulation of the sale and distribution of marijuana in order to:
(a) Prevent illegal underage use of marijuana and prevent marijuana advertising from being targeted at underage persons;
(b) Maintain an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;
(c) Raise tax revenue from the production and sale of marijuana and allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans; elementary, secondary, and higher education; the cities and counties of this state; mental health and substance abuse programs; and for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;
(d) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
(e) Prevent violence and the illegal use of firearms in the cultivation and distribution of marijuana;
(f) Prevent marijuana related activities that are legal under state law from being used as a cover or pretext for other illegal activity;
(g) Prevent illegal diversion of marijuana into or from this state or onto federal property;
(h) Prevent driving, operating dangerous machinery, and performing important tasks while impaired by marijuana;
(i) Prevent illegal growing of marijuana on public lands;
(j) Encourage the federal government to have faith in the states' ability to eliminate the problems associated with uncontrolled criminal manufacture, production, delivery, and possession of marijuana.

3. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:
(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.
(2)"Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.
(3) "Department" means the department of health and senior services, or any successor department.
(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.
(5)"Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.
(6) "Expungeable marijuana offense" means:
(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia;
(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years or older at the time of the offense.
(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.
(8) "Impaired" means inability to safely or effectively operate a vehicle or other machinery or perform some other vital task.
(9) "Industrial hemp" means all male cannabis plants, all female cannabis plants that have not flowered for more than ten days, and all cannabis, whether growing or not, that contains not more than one percent tetrahydrocannabinol.
(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local government body, agency, or official.
(11) "Licensee" means any person who holds a marijuana license for manufacturing, producing, processing, wholesale purchase or sale, transportation,delivery, of marijuana, marijuana products, marijuana concentrtates, marijuana extracts, or marijuana paraphernalia.
(12) "Manufacture" means the production, preparation, propagation, compounding, or processing of marijuana paraphernalia or of marijuana, marijuana products, marijuana concentrates, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging and repackaging of the substance and labeling or relabeling of its container.
(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, that contain more than one percent tetrahydrocannabinol, but does not include marijuana concentrates, marijuana extracts, marijuana products, or cannabis defined as industrial hemp.
(14) "Marijuana concentrate" means a product obtained by separating resins from marijuana by sifting, compression, heat, cold, and/or with non-volatile solvents such as water, ice, dry ice, vegetable glycerin, plant oils, and dairy products.
(15) "Marijuana extract" means a product obtained by separating resins from marijuana using volatile solvents such as butane, hexane, isopropyl alcohol, ethanol, or with the use of extremely high pressure or other dangerous technology.
(16) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia.
(17) "Marijuana paraphernalia" means all equipment, products, substances, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing marijuana, marijuana products, marijuana concentrates, or marijuana extracts into the body.
(18) "Marijuana products" means products that contain marijuana, marijuana concentrates, or marijuana extracts and are meant for consumption, but does not mean marijuana by itself, marijuana concentrate by itself, or marijuana extract by itself.
(19) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia to a consumer in this state.
(20) "Person" includes any individual or entity.
(21) "Personal exemption limits" means at any given time for any consumer who is at least twenty-one years of age:
(a) Three hundred sixty-five grams of useable marijuana, provided that not more than thirty-five grams is possessed outside of a person's bona fide residence; and
(b) 90 grams of marijuana concentrates or extracts that contain fifty percent or less tetrahydrocannabinol, provided that not more than five grams is possessed outside of a person's bona fide residence; and
(c) 45 grams of marijuana concentrates or extracts that contain more than fifty percent tetrahydrocannabinol, provided that not more than three grams is possessed outside the person's bona fide residence; and
(d) any amount of marijuana products in solid or liquid form, provided that the amount of marijuana used to produce them does not exceed three hundred sixty-five grams of useable marijuana and provided that not more marijuana products than were derived from thirty-five grams or less is possessed outside of a person's bona fide residence; and
(e) six living female marijuana plants after they have displayed flowers for ten days, provided the consumer has been a bona fide resident of the state for at least one year; and
(f) possession or manufacture of any amount of industrial hemp.
(22) "Person twenty-one years of age or older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.
(23) "Produce" or "production" includes the manufacture, planting, cultivation, growing, curing, or harvesting of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia.
(24) "Public place" means places developed for the general public to have access to, and includes but is not limited to: hallways, lobbies, and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence; highways, streets, alleys, sidewalks, and other right of ways with improved surfaces for public travel; premises and facilities used in connection with public passenger transportation; open parts of public office buildings; open parts of all public schools and private schools who serve primarily persons under twenty-one years of age; playgrounds, picnic areas, and other developed areas of parks and other publicly owned land; and all indoor areas of any business that is open to the general public; but does not include any business with a marijuana license or any church or religious assembly where consumption of marijuana is part of the exercise of individuals' sincerely held religious beliefs.
(25) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.
(26) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.
(27) "Useable marijuana" means fully dried female flowers and leaves of marijuana or any mixture thereof, but does not include seeds or parts that contain less than one percent tetrahydrocannabinol.

4. Except as otherwise provided in this section, no state law shall:
(1) Prohibit the medical use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia;
(2) Prohibit the agricultural cultivation, purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of industrial hemp;
(3) Prohibit the possession or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;
(4) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;
(5) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;
(6) Impose a presumption of liability, culpability, negligence, being under the influence, intoxication, or any kind of impairment because of marijuana use or the presence of any amount of marijuana or marijuana metabolites in the body without independent evidence based on objective criteria that are applied in a non-discriminatory manner to all factors in

14-122

making such determinations;

(7) Provide for the seizure or forfeiture of any property because it was used in connection with any purchase, sale, manufacturing, production, processing, transportation,delivery, possession, or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia, or industrial hemp if such activity is lawful under state law; or

(8) Authorize any expenditures or other assistance to the enforcement of laws of another jurisdiction that prohibit acts that are made lawful under this section, including maintenance of any license issued to any person who attempts to circumvent the purposes of this section by assisting in the enforcement of laws of another jurisdiction that prohibit acts made lawful by this section.

5. Nothwithstanding sub-section 4 of this section, a state law may:

(1) Prohibit illegal importation and exportation of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia into and out of this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in or on, or within one thousand feet of real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a passenger or commercial vehicle, watercraft, aircraft, railroad train, heavy equipment, or other similar dangerous machinery while impaired by marijuana;

(4) Authorize the least restrictive non-prohibitive regulations of medical marijuana use that are necessary to further the state's compelling interests in issuing licenses; disciplining public officials and professionals; protecting prisoners, probationers, and parolees; and preserving the peace without discrimination in housing, employment, and public accommodations;

(5) Impose an excise tax on the first fair market sale of marijuana produced in this state at a rate of twenty-five percent of the purchase price;

(6) Prohibit the use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in a public place, except that the penalty for violation of such a law shall not exceed that for an infraction;

(7) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with sub-section 6 of this section and classify the penalties for violations of such laws, provided that no penalty for any offense based on facts relating to any marijuana use, manufacture, or transaction shall be greater than that for the lowest classification of felony.

6. Subject to the provisions of subsection 7 of this section, on or before June 1, 2015 the division shall promulgate rules and regulations, and the general assembly may enact laws, that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase wholesale, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia for commercial purposes;

(2) Provide for the enforcement of laws regulating licensees and for the examination and inspection of the books, records, and premises of licensees;

(3) Regulate the advertising of marijuana, marijuana products, marijuana concentrates, marijuana extracts, and marijuana paraphernalia;

(4) Provide for the collection of the excise tax provided in paragraph (5) of subsection 5 of this section;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license fees collected as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph (5) of subsection 5 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding;

(6) Limit the amount of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia that a person, other than a licensee, may possess at any given time; provided however that the penalty for violation of any such law may not exceed that for an infraction for a first violation and a misdemeanor for any second and subsequent violation.

7. No state law or combination of state laws shall:

(1) Prohibit any qualifying individual from using medical marijuana;

(2) Limit the amount of industrial hemp a person may possess or manufacture;

(3) Impose any tax on, or discrimination in administration of subsidies or other programs relating to, industrial hemp or marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia or transactions involving industrial hemp, marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia that is not imposed on other products generally, except for the tax provided in paragraph (5) of subsection 5 of this section and reasonable administrative fees for licensees;

(4) Limit the amount of marijuana, marijuana products, marijuana concentrates, or marijuana extracts that consumers over the age of twenty-one may manufacture or possess for noncommercial use at any given time to amounts less than:

(a) Three hundred sixty-five grams of useable marijuana, provided that not more than thirty-five grams is possessed outside of a person's bona fide residence; and

(b) 90 grams of marijuana concentrates or extracts that contain fifty percent or less tetrahydrocannabinol, provided that not more than five grams is possessed outside of a person's bona fide residence; and

(c) 45 grams of marijuana concentrates or extracts that contain more than fifty percent tetrahydrocannabinol, provided that not more than three grams is possessed outside the person's bona fide residence; and

(d) any amount of marijuana products in solid or liquid form, provided that the amount of marijuana used to produce them does not exceed three hundred sixty-five grams of useable marijuana and provided that not more marijuana products than were derived from thirty-five grams or less is possessed outside of a person's bona fide residence; and

(e) six living female marijuana plants after they have displayed flowers for ten days, provided the consumer has been a bona fide resident of the state for at least one year;

(5) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(6) Limit the number of marijuana licenses granted to the same person;

(7) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(8) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or is not a resident of this state;

(9) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense specified in paragraphs (1) or (2) of subsection 10 of this section; or (ii) any marijuana-related offense that has been expunged;

(10) Require a person twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia, or industrial hemp within the personal exemption limits;

(11) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(12) Require any marijuana retailer to record the name or any other identifiable information of any consumer twenty-one years of age or older;

(13) Require any individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia for no consideration to another person twenty-one years of age or older, if:

(a) the marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia was purchased from a licensed marijuana retailer; or

(b) the marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia were produced by a person without a license in accordance with paragraph (14) of this subsection;

(14) Require an individual twenty-one years of age or older to obtain a license, pay any tax, or be subjected to any laws that are not the least restrictive means necessary to further compelling state interests in order to possess or manufacture marijuana, marijuana products, marijuana concentrates, or marijuana paraphernalia for noncommercial uses if the aggregate amounts of marijuana, marijuana products, or marijuana concentrates do not exceed the personal exemption limits; but provided that manufacture of marijuana extracts may require a license for non-commercial or commercial use;

(15) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (14) of this subsection may exceed that for:

(a) An infraction if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(16) Provide that the penalty for violation of any other offense that is based on marijuana possession or transactions be punishable by more than that authorized for the lowest classification of felony;

(17) Make the ownership or operation of an industrial hemp business or licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct business.

8. On or before June 15, 2015 the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, marijuana concentrates, or marijuana extracts to be able to discuss freely with their health care providers the possible risks and benefits of medical marijuana use and have the benefit of their health care providers' advice;

(2) Protect medical marijuana consumers and their health care providers from being subjected to any criminal or civil penalties or discrimination regarding impeachment or removal from office; employment; housing; education; public accommodations; child custody, guardianships, foster care, and adoptions; organ transplants and other health care when a health

14-122

care provider who is licensed and certified to write prescriptions for any medication, including a veterinarian providing bona fide care for an animal owned by a consumer who is 21 years of age or older, advises that such use may provide a medical benefit to the patient, subject however to narrowly tailored regulations that authorize the least restrictive means of furthering compelling state interests under particular circumstances;

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, marijuana concentrates, or marijuana extracts for medical purposes unless such individual's custodial parent or legal guardian responsible for making health care decisions consents to such use.

(4) Seek reciprocal recognition of medical marijuana consumers with other states that authorize use of medical marijuana;

(5) Assure that personally identifying information about medical marijuana consumers and their health care providers is not subject to public disclosure.

9. No licensed health care provider may be subjected to any criminal or civil penalty, or to discipline from any state licensing division, board, or commission, for:

(1) Advising that a patient whom the health care provider has diagnosed as having a medical condition, or a patient whom the health care provider knows has been so diagnosed by another licensed health care provider, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the causes, symptoms, or effects of the patient's medical condition, provided the advice is based on the health care provider's personal assessment of the patient's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such assessment and advice.

10. Convictions for marijuana or industrial hemp offenses that occurred prior to the effective date of this section shall be expunged and penalties retroactively reduced as follows:

(1) An individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has pleaded guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).

(2) After a period of not less than one year, an individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana related offense that occurred prior to the date the application for expungement was filed, the court shall enter an order of expungement, provided however that the expungement proceeding shall be stayed pending the outcome of any pending marijuana related charge stemming from an alleged offense that occurred prior to filing the application for expungement.

(3) An individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable pursuant to paragraph (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an order of expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more orders of expungement pursuant to this paragraph (3).

(4) The filing fee for application for an order of expungement pursuant to this subsection shall not exceed the normal fee for filing a civil petition in the circuit court.

(5) The effects of an order of expungement shall be to order destruction of all government records of the marijuana offense arrest, plea, trial, or conviction and to restore the applicable individual to the status he or she occupied prior to such arrest, plea, trial, or conviction as if such event had never happened, including but not limited to: full restoration of such offender's voting, jury, firearms, licensure, and any other civil rights or privileges that were forfeited or compromised because of the expunged offense. No individual as to whom such order has been entered shall be charged thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of him or her for any purpose whatsoever.

(6) If an applicant petitioning for expungement of an expungeable marijuana offense alleges that he or she is currently restrained of liberty by virtue of jail, imprisonment, probation, parole, or otherwise restrained of his or her liberty the case shall be expedited and proceed by writ of habeas corpus. Such a person imprisoned or in jail, on probation or parole, or otherwise restrained of his or her liberty shall be released from such restraint immediately upon issuance of the applicable order or orders of expungement.

(7) A person who is in jail, prison, on probation, on parole, or otherwise currently restrained of his or her liberty because of any non-expungeable offense or alleged offense that is based on marijuana possession, use, or transactions who has been detained for a period of time or is being held pursuant to a sentence that is longer than that authorized for the lowest classification of felony may apply for an order of expungement pursuant to this subsection and shall be ordered released immediately or at some definite time before the maximum imprisonment authorized for punishment of the lowest classification of felony and shall be released upon granting of an order of expungement pursuant to this subsection; however, records of the offense shall not be destroyed, but may be closed to the public if the court determines closing the records is in the interests of justice.

11. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using industrial hemp, marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia is prohibited by federal law.

12. Nothing in this section shall be construed to:

(1) Affect any federal or state law that permits an owner, lessor, lessee, or any other person who has a legal interest in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(2) Require a person to violate a federal law; or

(3) Exempt a person from a federal law.

13. The Attorney General is authorized and directed to advocate for waivers of or exceptions to all federal laws inconsistent with this section and to seek expungement of records of expunged offenses that are maintained by another jurisdiction.

14. The Governor is authorized and directed to advocate for the federal government to waive or amend all laws inconsistent with this section.

15. The general assembly may enact laws to regulate industrial hemp and marijuana that are not inconsistent with this section.

16. The division is authorized and directed to make, administer, and enforce rules and regulations that are not inconsistent with this section.

17. The department is authorized and directed to make, administer, and enforce rules and regulations that are not inconsistent with this section.

18. All provisions of this section shall be self-enforcing. This section will become effective thirty days after the election approving this section.

19. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, illegal, or void. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. If any subsections, paragraphs, phrases, or words of this section are held to be unconstitutional, illegal, or void, either on their face or as applied, the constitutionality, legality, and applicability of any and all other subsections, paragraphs, phrases, and words shall not be affected.

20. All state laws that are inconsistent with this section shall no longer be in force and effect insofar as they are inconsistent with this section. Insofar as they are applied to industrial hemp or marijuana, this section may implicitly repeal or amend the following statutes:

(1) Sections 1.170; 1.180; 105.1105; 105.1108; 105.1112; 324.041; 324.086; 331.060; 332.321; 333.330; 334.100; 334.102; 334.103; 334.107; 334.613; 334.616; 335.066; 336.110; 337.035; 337.330; 337.525; 337.630; 337.730; 338.013; 338.055; 338.065; 338.380; 339.100; 340.264; 340.274; 441.830; 486.385; 487.050; 577.500.1(3); 577.505; 590.080; 590.090; 590.100; 630.170; 578.315; 558.011.4(2); 632.505.3(3) by protecting medical marijuana consumers and their health care providers from any criminal or civil penalties or discrimination in: public employee hiring and discipline; professional and other licensure; employment, housing, education, public benefits, and public accommodations; organ transplants and other health care; and terms of probation, incarceration, or parole;

(2) Section 263.250 by legalizing agricultural and industrial hemp and thereby removing cannabis from the list of noxious weeds;

(3) Sections 195.010.(17)(g and l), (24), (40); 195.015.4; 195.017.2(1)(4)(w, ee, and ll); 195.202.; 195.211; 195.222; 195.223 by removing marijuana and marijuana paraphernalia from the list of controlled substances and legalizing their use, possession, production and distribution;

(4) Sections 195.275; 195.285; 195.291; 195.212; 195.213; 195.292; 195.295; 195.296; 195.320 ; 556.031; 558.016; 558.019; 568.045; 578.421(2)(d) by annulling or modifying application of statutes authorizing a criminal penalty for marijuana offenses;

(5) Sections 1.160; 610.120; 610.126.2 by expunging and destroying government records of marijuana law offenders and releasing marijuana law offenders from incarceration, probation, and parole;

(6) Sections 195.190; 195.195; 548.021 by prohibiting state expenditures or resources to cooperate with other states' or federal marijuana prohibition laws;

(7) Sections 306.110; 306.111.5; 306.116; 306.117; 571.070; 571.072; 577.001.3; 577.010; 577.020; 577.023(4); 577.037; 577.041.2(1)(a); 577.049; 577.203; 577.206; 577.214; 577.217; 577.221 by not presuming liability, culpability, negligence, being under the influence, intoxication, or any kind of impairment because of marijuana use or the presence of marijuana in a person's body.

(8) Article V, Section 24 and Article VII, Section 1 of the Constitution may be implicitly amended by protecting judges and elected officials from the civil penalties of discipline, impeachment, or removal from office if they are qualified medical marijuana consumers even if they are in violation of federal law.

14-123

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 10, 2014

RECEIVED
FEB 10 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Theodis Brown regarding a proposed to the Revised Statutes of Missouri (2014-123)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Theodis Brown on February 7, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-123

County _____
Page _____

RECEIVED
FEB 7 PM 3:39
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the extent of a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

Shall the Missouri Constitution be amended to:

be it enacted by the peoples of Missouri; shall the secton 47.310rsmo2013 be invoke to allow the formation of a new Missouri county by the name of castlepoint county missouri

the individual income tax yes? or no?

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____
Signature of Notary

_____
Address of Notary

My commission expires _____

Notary Public (Seal)

14-124

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 10, 2014

RECEIVED
MAR 10 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149, version A (2014-124)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Khristine Heisinger on March 7, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-124

County _____

RECEIVED Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for any one to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

2014 MAR -7 PM 12:16

INITIATIVE PETITION

Jason Kander
MO SEC. OF STATE

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

{Insert Ballot Title Here}

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201___.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-124

Be it enacted by the people of the state of Missouri:

Chapter 149, RSMo, is amended by adding thereto one new section, to be known as section 149.018, to read as follows:

149.018. 1. Notwithstanding any provision of law to the contrary, a tobacco product manufacturer as defined in section 196.1000(i), selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries), shall be considered to meet the requirements of section 196.1003, and sections 196.1020 to 196.1035, if the tobacco product manufacturer elects to have an additional tax levied on the sale of its cigarettes and roll-your-own tobacco in this state as set forth in subsection 2.

2. On and after January 1, 2015, an additional tax on the sale of cigarettes and roll-your-own tobacco, in an amount equal to one and one-half cents ($0.015) per cigarette, and ten and twenty-five hundredths percent of the manufacturer's invoice price before discounts and deals on roll-your-own tobacco, shall be levied and imposed upon the sale of cigarettes and roll-your-own tobacco in this state of any tobacco product manufacturer electing such taxation in lieu of the requirements of sections 196.1003 and 196.1020 to 196.1035.

3. Any taxes imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarettes and roll-your-own tobacco in this state and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of cigarettes and roll-your-own tobacco under this chapter.

14-125

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 10, 2014

RECEIVED
MAR 10 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149, version B (2014-125)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Khristine Heisinger on March 7, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-125

County _____

Page No. _____

RECEIVED
2014 FEB -7 PM 12:47
MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

{Insert Ballot Title Here}

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201___.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it enacted by the people of the state of Missouri:

Sections 196.1000, 196.1003, 196.1020, 196.1023, 196.1026, 196.1029, 196.1032, and 196.1035, RSMo, are repealed and one new section enacted in lieu thereof to be known as section 149.018, to read as follows:

149.018. On and after January 1, 2015, an additional tax on the sale of cigarettes and roll-your-own tobacco, in an amount equal to one and one-half cents ($0.015) per cigarette, and ten and twenty-five hundredths percent of the manufacturer's invoice price before discounts and deals on roll-your-own tobacco, shall be levied and imposed upon the sale of cigarettes and roll-your-own tobacco in this state. The taxes imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarettes and roll-your-own tobacco and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of cigarettes and roll-your-own tobacco under this chapter.

[196.1000. (a) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.
(b) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.
(c) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.
(d) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."
(e) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States tobacco product manufacturers.
(f) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least $1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with section 2(b)(2) of this Act.
(g) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.
(h) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.
(i) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):
(1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);
(2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or
(3) becomes a successor of an entity described in paragraph (1) or (2).

The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of (1)-(3) above.
(j) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of the State. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.]

[196.1003. Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:
(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or
(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)
1999: $.0094241 per unit sold
after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year
thereafter: $.0188482 per unit sold.
(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances
(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;
(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or
(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.
(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall
(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;
(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.]

[196.1020. As used in sections 196.1020 to 196.1035, the following terms mean:

(1) "Brand family", all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to "menthol", "lights", "kings", and "100s", and includes any brand name alone or in conjunction with any other word trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;

(2) "Cigarette", the same meaning as such term is defined in section 196.1000;

(3) "Director", the director of the Missouri department of revenue;

(4) "Master settlement agreement", the same meaning as such term is defined in section 196.1000;

(5) "Nonparticipating manufacturer", any tobacco product manufacturer that is not a participating manufacturer;

(6) "Participating manufacturer", the same meaning as such term is defined in section II(jj) of the master settlement agreement and all amendments thereto;

(7) "Qualified escrow fund", the same meaning as such term is defined in section 196.1000;

(8) "Stamping agent", a person who is authorized to affix tax stamps to packages or other containers or cigarettes under chapter 149 or any person who is required to pay the tax imposed under section 149.160 on other tobacco products;

(9) "Tobacco product manufacturer", the same meaning as such term is defined in section 196.1000;

(10) "Units sold", the same meaning as such term is defined in section 196.1000.]

[196.1023.1. Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the director a certification to the director no later than the thirtieth day of April each year certifying, under penalty of perjury, that as of the date of such certification such tobacco product manufacturer is a participating manufacturer or is in full compliance with section 196.1003.

(1) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the director.

(2) A nonparticipating manufacturer shall include in its certification:

(a) A list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year;

(b) A list of all of its brand families that have been sold in the state at any time during the current calendar year, which shall indicate, by an asterisk, any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification; and

(c) The name and address of any other manufacturer of such brand families in the preceding or current calendar year.

The nonparticipating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the director.

(3) For a nonparticipating manufacturer, such certification shall further certify:

(a) That such nonparticipating manufacturer is registered to do business in the state or has appointed a resident agent for service of process and provided notice thereof as required in this subsection;

(b) That such nonparticipating manufacturer has established, and continues to maintain, a qualified escrow fund and has executed a qualified escrow agreement, governing the qualified escrow fund, which has been reviewed and approved by the director;

(c) That such nonparticipating manufacturer is in full compliance with sections 196.1003 and 196.1020 to 196.1035 and any rules promulgated thereunder;

(d) The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established such qualified escrow fund required under section 196.1003 and all rules promulgated thereunder;
(e) The account number of such qualified escrow fund and any subaccount number for the state;
(f) The amount such nonparticipating manufacturer placed in such fund for cigarettes sold in the state during the preceding calendar year;
(g) The date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the director to confirm the foregoing; and
(h) The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made, at any time, from such fund or from any other qualified escrow fund into which it ever made escrow payments under section 196.1003 and all rules promulgated thereunder.
(4) A tobacco product manufacturer shall not include a brand family in its certification unless:
(a) In the case of a participating manufacturer, such participating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined under the master settlement agreement; and
(b) In the case of a nonparticipating manufacturer, such nonparticipating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of section 196.1003.
Nothing in this section shall be construed as limiting, or otherwise affecting, the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of section 196.1003.
(5) Tobacco product manufacturers shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.
2. On or after January 1, 2011, the director shall issue, maintain, update when necessary but only on the first calendar day of each month, make available for public inspection and publish on its website a directory listing of all tobacco product manufacturers that have provided current and accurate certifications in compliance with the requirements of subsection 1 of this section and all brand families listed in such certifications, except:
(1) The director shall not include, or retain, in such directory the name or brand families of any nonparticipating manufacturer that fails to provide the required certification, or whose certification the director determines is not in compliance with subdivisions (2) and (3) of subsection 1 of this section, unless the director has determined that such violation has been cured to the satisfaction of the director;
(2) Neither a tobacco product manufacturer nor brand family shall be included, or retained, in the directory if the director concludes, in the case of a nonparticipating manufacturer that:
(a) Any escrow payment required under section 196.1003 for any period, for any brand family, whether or not listed by such nonparticipating manufacturer has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement approved by the director; or
(b) Any outstanding final judgment, including interest thereon, for violations of section 196.1003 has not been fully satisfied for such brand family and such manufacturer;
(3) Every stamping agent shall provide, and update as necessary, an electronic mail address to the director for the purpose of receiving any notifications that may be required by sections 196.1020 to 196.1035.
3. (1) The directory issued and updated in subsection 2 of this section shall become effective immediately but only as it applies to tobacco product manufacturers, and it shall be unlawful for any tobacco wholesaler or retailer to purchase from any tobacco product manufacturer any cigarette or brand family not listed in the directory.
(2) The directory issued in subsection 2 of this section shall become effective on the first day of the month following the month in which said directory is published or updated as it applies to tobacco wholesalers, and on the fifteenth day of the month following the month in which said directory is published or updated as it applies to tobacco retailers in order to allow wholesalers and retailers sufficient time to sell their inventory.
(3) Unless otherwise permitted herein, it shall be unlawful for any person to:
(a) Affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or
(b) Sell, offer, or possess for sale in this state, or import for personal consumption in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory.]

[196.1026. 1. Any nonresident or foreign nonparticipating manufacturer not registered to do business in this state as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory, appoint, and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process shall be served, and any action or proceeding against it concerning, or arising out of, the enforcement of sections 196.1003 and 196.1020 to 196.1035 may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of such agent to the satisfaction of the director.
2. The nonparticipating manufacturer shall provide notice to the director thirty calendar days prior to termination of the authority of an agent and shall further provide proof, to the satisfaction of the director, of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the director of the termination within five calendar days and shall include proof, to the satisfaction of the director, of the appointment of a new agent.
3. Any nonparticipating manufacturer whose cigarettes are sold in this state and who has not appointed and engaged an agent as herein required shall be deemed to have appointed the secretary of state as such agent and may be proceeded against in courts of this state by service of process upon the secretary of state. However, the appointment of the secretary of state as such agent shall not satisfy the condition precedent for having the brand families of the nonparticipating manufacturer included, or retained, in the directory.]

[196.1029. 1. Not later than twenty days after the end of each calendar quarter and more frequently if so directed by the director, each stamping agent shall submit such information as the director requires to facilitate compliance with sections 196.1020 to 196.1035 including but not limited to:
(1) A list by brand family of the total number of cigarettes; or
(2) In the case of roll-your-own, the equivalent stick count for which the stamping agent affixed stamps during the previous calendar quarter or otherwise paid the tax due for such cigarettes.
The stamping agent shall maintain and make available to the director all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the director for a period of five years.
2. The director shall disclose to the attorney general any information received under sections 196.1020 to 196.1035 which is requested by the attorney general for purposes of determining compliance with and enforcing the provisions of sections 196.1020 to 196.1035. The director and attorney general shall share with each other information received under sections 196.1003 and 196.1020 to 196.1035, or corresponding laws of other states.
3. The director may, at any time, require from the nonparticipating manufacturer proof from the financial institution, in which such manufacturer has established a qualified escrow fund for the purpose of compliance with section 196.1003, of the amount of money in such fund exclusive of interest, and the amount and date of each deposit to such fund, and the amount and date of each withdrawal from such fund.
4. In addition to any other information required to be submitted under sections 196.1020 to 196.1035, the director may require a stamping agent or tobacco product manufacturer to submit any additional information, including but not limited to samples of the packaging or labeling of each brand family, as is necessary to enable the director to determine whether a tobacco product manufacturer is in compliance with sections 196.1020 to 196.1035.]

[196.1032. 1. In addition to, or in lieu of, any other civil or criminal remedy provided by law, upon a determination that a stamping agent or any person has violated subsection 3 of section 196.1023 or any regulation adopted under subsection 3 of section 196.1023, the director may revoke or suspend the license of any stamping agent in the manner provided in subsection 3 of section 149.035. Each stamp affixed and each sale, or offer to sell, cigarettes in violation of subsection 3 of section 196.1023 shall constitute a separate violation. Upon a determination of a violation of subsection 3 of section 196.1023 or any regulations adopted thereunder, the director may impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or five thousand dollars for each such violation.
2. Any cigarettes deemed by a court of competent jurisdiction to have been sold, offered for sale, or possessed for sale in this state in violation of subsection 3 of section 196.1023 shall be

contraband and such cigarettes shall be subject to seizure and forfeiture as provided in chapter 149 and all such cigarettes so seized and forfeited shall be destroyed and not resold.
3. The attorney general, on behalf of the director, may seek an injunction to restrain a threatened or actual violation of subsection 3 of section 196.1023, or subsection 1 or 4 of section 196.1029 by a stamping agent and to compel a stamping agent to comply with such provisions. In any successful action brought under this section, the state may be entitled to recover the costs of investigation and action including reasonable attorney fees.
4. It shall be unlawful for a person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported, cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of subsection 3 of section 196.1023. A violation of this subsection shall be a class A misdemeanor.
5. A person who violates subsection 3 of section 196.1023 shall be deemed to have engaged in an unfair practice in violation of section 407.020.]

[196.1035. 1. A determination of the director not to list, or to remove from the directory, a brand family or tobacco product manufacturer shall be subject to review by a court of competent jurisdiction.
2. No person shall be issued, or granted a renewal of, a license under chapter 149 unless such person has certified, in writing and under the penalty of perjury, that such person will comply fully with sections 196.1020 to 196.1035.
3. For the calendar year 2010, if the effective date of sections 196.1020 to 196.1035 is later than March 16, 2010:
(1) The first report of stamping agents required in subsection 1 of section 196.1029 shall be due thirty calendar days after July 7, 2010;
(2) The certification by a tobacco product manufacturer described in subsection 1 of section 196.1023 shall be due forty-five calendar days after July 7, 2010; and
(3) The directory described in subsection 2 of section 196.1023 shall be published, or made available, within one hundred thirty-five calendar days after July 7, 2010.
4. The director may promulgate rules necessary to effect the purpose of sections 196.1020 to 196.1035. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.
5. There is hereby created in the state treasury the "Tobacco Control Special Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.
6. If a court of competent jurisdiction determines that a person has violated sections 196.1020 to 196.1035, such court shall order any profits, gains, gross receipts, or other benefits from such violation be disgorged and paid to the state treasurer for deposit in the "Tobacco Control Special Fund". Unless otherwise expressly provided, the remedies or penalties provided by sections 196.1020 to 196.1035 are cumulative to each other and to the remedies or penalties available under all other laws of this state.
7. If a court of competent jurisdiction finds that the provisions of sections 196.1003 and 196.1020 to 196.1035 conflict and cannot be harmonized, the provisions of section 196.1003 shall control. If any section or portion of a section in sections 196.1020 to 196.1035 causes section 196.1003 to no longer constitute a qualifying or model statute, as those terms are defined in the master settlement agreement, that portion of sections 196.1020 to 196.1035 shall be invalid.]

14-126

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 10, 2014

RECEIVED
MAR 10 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149, version C (2014-126)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Khristine Heisinger on March 7, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-126

County _____

RECEIVED

Page No. _____

2014 MAR 7 PM 12:18

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars, or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

MO SEC. OF STATE

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

{Insert Ballot Title Here}

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ _____

Signature of Affiant
(Person obtaining signatures)

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201___.

_____ _____

Signature of Notary

Address of Notary

Notary Public (Seal)

My commission expires _____

14-126

Be it enacted by the people of the state of Missouri:

Chapter 149, RSMo, is amended by adding thereto one new section, to be known as section 149.018, to read as follows:

149.018. 1. Notwithstanding any provision of law to the contrary, a tobacco product manufacturer as defined in section 196.1000(i), selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries), shall be considered to meet the requirements of section 196.1003, and sections 196.1020 to 196.1035, when the additional tax as set forth in subsection 2 is levied on the sale of the tobacco product manufacturer's cigarettes and roll-your-own tobacco.

2. On and after January 1, 2015, an additional tax on the sale of cigarettes and roll-your-own tobacco, in an amount equal to one and one-half cents ($0.015) per cigarette, and ten and twenty-five hundredths percent of the manufacturer's invoice price before discounts and deals on roll-your-own tobacco, shall be levied and imposed upon the sale of cigarettes and roll-your-own tobacco in this state.

3. Any taxes imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarettes and roll-your-own tobacco and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of cigarettes and roll-your-own tobacco under this chapter.

14-127

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
MAR 11 2014
STATE AUDITORS OFFICE

March 11, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149 (2014-127)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Khristine Heisinger on March 11, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-127

RECEIVED

County _____

Page No. _____

2014 MAR 11 AM 11:10

MO SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

{Insert Ballot Title Here}

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201___.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-127

Be it enacted by the people of the state of Missouri:

Chapter 149, RSMo, is amended by adding thereto one new section, to be known as section 149.018, to read as follows:

149.018. 1. Notwithstanding any provision of law to the contrary, a tobacco product manufacturer as defined in section 196.1000(i), selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries), shall be considered to meet the requirements of section 196.1003, and sections 196.1020 to 196.1035, when the additional tax as set forth in subsection 2 is levied on the sale of the tobacco product manufacturer's cigarettes and roll-your-own tobacco.

2. On and after January 1, 2015, an additional tax on the sale of cigarettes and roll-your-own tobacco, in an amount equal to one and one-half cents ($0.015) per cigarette, and ten and twenty-five hundredths percent of the manufacturer's invoice price before discounts and deals on roll-your-own tobacco, shall be levied and imposed upon the sale of cigarettes and roll-your-own tobacco in this state.

3. Any taxes imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarettes and roll-your-own tobacco and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of cigarettes and roll-your-own tobacco under this chapter.

14-128

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
MAR 11 2014
STATE AUDITORS OFFICE

March 11, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149 (2014-128)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Khristine Heisinger on March 11, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-128

County _____

RECEIVED

Page No. _____

2014 MAR 11 AM 11

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

Jason Kander
MO SEC. OF STATE

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

{Insert Ballot Title Here}

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant
(Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201___.

_____
Signature of Notary

_____
Address of Notary

Notary Public (Seal)

My commission expires _____

14-128

Be it enacted by the people of the state of Missouri:

Chapter 149, RSMo, is amended by adding thereto one new section, to be known as section 149.018, to read as follows:

149.018. 1. Notwithstanding any provision of law to the contrary, a tobacco product manufacturer as defined in section 196.1000(i), selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries), shall be considered to meet the requirements of section 196.1003, and sections 196.1020 to 196.1035, if the tobacco product manufacturer elects to have an additional tax levied on the sale of its cigarettes and roll-your-own tobacco in this state as set forth in subsection 2.

2. On and after January 1, 2015, an additional tax on the sale of cigarettes and roll-your-own tobacco, in an amount equal to one and one-half cents ($0.015) per cigarette, and ten and twenty-five hundredths percent of the manufacturer's invoice price before discounts and deals on roll-your-own tobacco, shall be levied and imposed upon the sale of cigarettes and roll-your-own tobacco in this state of any tobacco product manufacturer electing such taxation in lieu of the requirements of sections 196.1003 and 196.1020 to 196.1035.

3. Any taxes imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarettes and roll-your-own tobacco in this state and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of cigarettes and roll-your-own tobacco under this chapter.

14-129

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 11, 2014

RECEIVED
MAR 1 1 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Khristine Heisinger regarding a proposed statutory amendment to Chapter 149 (2014-129)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Khristine Heisinger on March 11, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

14-129

RECEIVED

County _____

Page No. _____

2014 MAR 14 AM 11:12

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for any one to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

JASON KANDER
MO SEC. OF STATE

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

{Insert Ballot Title Here}

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (printed names of signers below)
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____ Signature of Affiant
(Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201___.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

14-129

Be it enacted by the people of the state of Missouri:

Sections 196.1000, 196.1003, 196.1020, 196.1023, 196.1026, 196.1029, 196.1032, and 196.1035, RSMo, are repealed and one new section enacted in lieu thereof to be known as section 149.018, to read as follows:

149.018. On and after January 1, 2015, an additional tax on the sale of cigarettes and roll-your-own tobacco, in an amount equal to one and one-half cents ($0.015) per cigarette, and ten and twenty-five hundredths percent of the manufacturer's invoice price before discounts and deals on roll-your-own tobacco, shall be levied and imposed upon the sale of cigarettes and roll-your-own tobacco in this state. The taxes imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarettes and roll-your-own tobacco and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of cigarettes and roll-your-own tobacco under this chapter.

[196.1000. (a) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.
(b) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.
(c) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.
(d) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."
(e) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States tobacco product manufacturers.
(f) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least $1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with section 2(b)(2) of this Act.
(g) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.
(h) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.
(i) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):
(1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);
(2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or
(3) becomes a successor of an entity described in paragraph (1) or (2).

14-129

The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of (1)-(3) above.
(j) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of the State. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.]

[196.1003. Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:
(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or
(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)
1999: $.0094241 per unit sold
after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year
thereafter: $.0188482 per unit sold.
(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances
(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;
(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or
(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.
(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall
(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;
(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

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(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.]

[196.1020. As used in sections 196.1020 to 196.1035, the following terms mean:

(1) "Brand family", all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to "menthol", "lights", "kings", and "100s", and includes any brand name alone or in conjunction with any other word trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;

(2) "Cigarette", the same meaning as such term is defined in section 196.1000;

(3) "Director", the director of the Missouri department of revenue;

(4) "Master settlement agreement", the same meaning as such term is defined in section 196.1000;

(5) "Nonparticipating manufacturer", any tobacco product manufacturer that is not a participating manufacturer;

(6) "Participating manufacturer", the same meaning as such term is defined in section II(jj) of the master settlement agreement and all amendments thereto;

(7) "Qualified escrow fund", the same meaning as such term is defined in section 196.1000;

(8) "Stamping agent", a person who is authorized to affix tax stamps to packages or other containers or cigarettes under chapter 149 or any person who is required to pay the tax imposed under section 149.160 on other tobacco products;

(9) "Tobacco product manufacturer", the same meaning as such term is defined in section 196.1000;

(10) "Units sold", the same meaning as such term is defined in section 196.1000.]

[196.1023.1. Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the director a certification to the director no later than the thirtieth day of April each year certifying, under penalty of perjury, that as of the date of such certification such tobacco product manufacturer is a participating manufacturer or is in full compliance with section 196.1003.

(1) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the director.

(2) A nonparticipating manufacturer shall include in its certification:

(a) A list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year;

(b) A list of all of its brand families that have been sold in the state at any time during the current calendar year, which shall indicate, by an asterisk, any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification; and

(c) The name and address of any other manufacturer of such brand families in the preceding or current calendar year.

The nonparticipating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the director.

(3) For a nonparticipating manufacturer, such certification shall further certify:

(a) That such nonparticipating manufacturer is registered to do business in the state or has appointed a resident agent for service of process and provided notice thereof as required in this subsection;

(b) That such nonparticipating manufacturer has established, and continues to maintain, a qualified escrow fund and has executed a qualified escrow agreement, governing the qualified escrow fund, which has been reviewed and approved by the director;

(c) That such nonparticipating manufacturer is in full compliance with sections 196.1003 and 196.1020 to 196.1035 and any rules promulgated thereunder;

H-129

(d) The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established such qualified escrow fund required under section 196.1003 and all rules promulgated thereunder;
(e) The account number of such qualified escrow fund and any subaccount number for the state;
(f) The amount such nonparticipating manufacturer placed in such fund for cigarettes sold in the state during the preceding calendar year;
(g) The date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the director to confirm the foregoing; and
(h) The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made, at any time, from such fund or from any other qualified escrow fund into which it ever made escrow payments under section 196.1003 and all rules promulgated thereunder.
(4) A tobacco product manufacturer shall not include a brand family in its certification unless:
(a) In the case of a participating manufacturer, such participating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined under the master settlement agreement; and
(b) In the case of a nonparticipating manufacturer, such nonparticipating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of section 196.1003.
Nothing in this section shall be construed as limiting, or otherwise affecting, the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of section 196.1003.
(5) Tobacco product manufacturers shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.
2. On or after January 1, 2011, the director shall issue, maintain, update when necessary but only on the first calendar day of each month, make available for public inspection and publish on its website a directory listing of all tobacco product manufacturers that have provided current and accurate certifications in compliance with the requirements of subsection 1 of this section and all brand families listed in such certifications, except:
(1) The director shall not include, or retain, in such directory the name or brand families of any nonparticipating manufacturer that fails to provide the required certification, or whose certification the director determines is not in compliance with subdivisions (2) and (3) of subsection 1 of this section, unless the director has determined that such violation has been cured to the satisfaction of the director;
(2) Neither a tobacco product manufacturer nor brand family shall be included, or retained, in the directory if the director concludes, in the case of a nonparticipating manufacturer that:
(a) Any escrow payment required under section 196.1003 for any period, for any brand family, whether or not listed by such nonparticipating manufacturer has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement approved by the director; or
(b) Any outstanding final judgment, including interest thereon, for violations of section 196.1003 has not been fully satisfied for such brand family and such manufacturer;
(3) Every stamping agent shall provide, and update as necessary, an electronic mail address to the director for the purpose of receiving any notifications that may be required by sections 196.1020 to 196.1035.
3. (1) The directory issued and updated in subsection 2 of this section shall become effective immediately but only as it applies to tobacco product manufacturers, and it shall be unlawful for any tobacco wholesaler or retailer to purchase from any tobacco product manufacturer any cigarette or brand family not listed in the directory.
(2) The directory issued in subsection 2 of this section shall become effective on the first day of the month following the month in which said directory is published or updated as it applies to tobacco wholesalers, and on the fifteenth day of the month following the month in which said directory is published or updated as it applies to tobacco retailers in order to allow wholesalers and retailers sufficient time to sell their inventory.
(3) Unless otherwise permitted herein, it shall be unlawful for any person to:
(a) Affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or
(b) Sell, offer, or possess for sale in this state, or import for personal consumption in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory.]

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[196.1026. 1. Any nonresident or foreign nonparticipating manufacturer not registered to do business in this state as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory, appoint, and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process shall be served, and any action or proceeding against it concerning, or arising out of, the enforcement of sections 196.1003 and 196.1020 to 196.1035 may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of such agent to the satisfaction of the director.
2. The nonparticipating manufacturer shall provide notice to the director thirty calendar days prior to termination of the authority of an agent and shall further provide proof, to the satisfaction of the director, of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the director of the termination within five calendar days and shall include proof, to the satisfaction of the director, of the appointment of a new agent.
3. Any nonparticipating manufacturer whose cigarettes are sold in this state and who has not appointed and engaged an agent as herein required shall be deemed to have appointed the secretary of state as such agent and may be proceeded against in courts of this state by service of process upon the secretary of state. However, the appointment of the secretary of state as such agent shall not satisfy the condition precedent for having the brand families of the nonparticipating manufacturer included, or retained, in the directory.]

[196.1029. 1. Not later than twenty days after the end of each calendar quarter and more frequently if so directed by the director, each stamping agent shall submit such information as the director requires to facilitate compliance with sections 196.1020 to 196.1035 including but not limited to:
(1) A list by brand family of the total number of cigarettes; or
(2) In the case of roll-your-own, the equivalent stick count for which the stamping agent affixed stamps during the previous calendar quarter or otherwise paid the tax due for such cigarettes.
The stamping agent shall maintain and make available to the director all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the director for a period of five years.
2. The director shall disclose to the attorney general any information received under sections 196.1020 to 196.1035 which is requested by the attorney general for purposes of determining compliance with and enforcing the provisions of sections 196.1020 to 196.1035. The director and attorney general shall share with each other information received under sections 196.1003 and 196.1020 to 196.1035, or corresponding laws of other states.
3. The director may, at any time, require from the nonparticipating manufacturer proof from the financial institution, in which such manufacturer has established a qualified escrow fund for the purpose of compliance with section 196.1003, of the amount of money in such fund exclusive of interest, and the amount and date of each deposit to such fund, and the amount and date of each withdrawal from such fund.
4. In addition to any other information required to be submitted under sections 196.1020 to 196.1035, the director may require a stamping agent or tobacco product manufacturer to submit any additional information, including but not limited to samples of the packaging or labeling of each brand family, as is necessary to enable the director to determine whether a tobacco product manufacturer is in compliance with sections 196.1020 to 196.1035.]

[196.1032. 1. In addition to, or in lieu of, any other civil or criminal remedy provided by law, upon a determination that a stamping agent or any person has violated subsection 3 of section 196.1023 or any regulation adopted under subsection 3 of section 196.1023, the director may revoke or suspend the license of any stamping agent in the manner provided in subsection 3 of section 149.035. Each stamp affixed and each sale, or offer to sell, cigarettes in violation of subsection 3 of section 196.1023 shall constitute a separate violation. Upon a determination of a violation of subsection 3 of section 196.1023 or any regulations adopted thereunder, the director may impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or five thousand dollars for each such violation.
2. Any cigarettes deemed by a court of competent jurisdiction to have been sold, offered for sale, or possessed for sale in this state in violation of subsection 3 of section 196.1023 shall be

contraband and such cigarettes shall be subject to seizure and forfeiture as provided in chapter 149 and all such cigarettes so seized and forfeited shall be destroyed and not resold.
3. The attorney general, on behalf of the director, may seek an injunction to restrain a threatened or actual violation of subsection 3 of section 196.1023, or subsection 1 or 4 of section 196.1029 by a stamping agent and to compel a stamping agent to comply with such provisions. In any successful action brought under this section, the state may be entitled to recover the costs of investigation and action including reasonable attorney fees.
4. It shall be unlawful for a person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported, cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of subsection 3 of section 196.1023. A violation of this subsection shall be a class A misdemeanor.
5. A person who violates subsection 3 of section 196.1023 shall be deemed to have engaged in an unfair practice in violation of section 407.020.]

[196.1035. 1. A determination of the director not to list, or to remove from the directory, a brand family or tobacco product manufacturer shall be subject to review by a court of competent jurisdiction.
2. No person shall be issued, or granted a renewal of, a license under chapter 149 unless such person has certified, in writing and under the penalty of perjury, that such person will comply fully with sections 196.1020 to 196.1035.
3. For the calendar year 2010, if the effective date of sections 196.1020 to 196.1035 is later than March 16, 2010:
(1) The first report of stamping agents required in subsection 1 of section 196.1029 shall be due thirty calendar days after July 7, 2010;
(2) The certification by a tobacco product manufacturer described in subsection 1 of section 196.1023 shall be due forty-five calendar days after July 7, 2010; and
(3) The directory described in subsection 2 of section 196.1023 shall be published, or made available, within one hundred thirty-five calendar days after July 7, 2010.
4. The director may promulgate rules necessary to effect the purpose of sections 196.1020 to 196.1035. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.
5. There is hereby created in the state treasury the "Tobacco Control Special Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.
6. If a court of competent jurisdiction determines that a person has violated sections 196.1020 to 196.1035, such court shall order any profits, gains, gross receipts, or other benefits from such violation be disgorged and paid to the state treasurer for deposit in the "Tobacco Control Special Fund". Unless otherwise expressly provided, the remedies or penalties provided by sections 196.1020 to 196.1035 are cumulative to each other and to the remedies or penalties available under all other laws of this state.
7. If a court of competent jurisdiction finds that the provisions of sections 196.1003 and 196.1020 to 196.1035 conflict and cannot be harmonized, the provisions of section 196.1003 shall control. If any section or portion of a section in sections 196.1020 to 196.1035 causes section 196.1003 to no longer constitute a qualifying or model statute, as those terms are defined in the master settlement agreement, that portion of sections 196.1020 to 196.1035 shall be invalid.]

14-HJR 11&7

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 22, 2013

RECEIVED
MAY 22 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for HJR Nos. 11 & 7

Dear Mr. Schweich:

Enclosed please find a copy of HJR Nos. 11 & 7 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with §§ 116.160.1, 116.170 and 116.175 RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to § 116.170 RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

14-HJR 1147

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

CONFERENCE COMMITTEE SUBSTITUTE NO. 2 FOR

SENATE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NOS. 11 & 7

97TH GENERAL ASSEMBLY

0132H.05T 2013

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri, and adopting one new section relating to the right to farm.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding thereto one new section, to be known as section 35, to read as follows:

Section 35. That agriculture which provides food, energy, health benefits, and security is the foundation and stabilizing force of Missouri's economy. To protect this vital sector of Missouri's economy, the right of farmers and ranchers to engage in farming and ranching practices shall be forever guaranteed in this state, subject to duly authorized powers, if any, conferred by article VI of the Constitution of Missouri.

Section B. Pursuant to Chapter 116, RSMo, and other applicable constitutional provisions and laws of this state allowing the general assembly to adopt ballot language for the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14-HJR 117

submission of a joint resolution to the voters of this state, the official ballot title of the amendment proposed in Section A shall be as follows:

"Shall the Missouri Constitution be amended to ensure that the right of Missouri citizens to engage in agricultural production and ranching practices shall not be infringed?"

✓

Speaker of the House

President Pro Tem of the Senate

KA HJR 16

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 22, 2013

RECEIVED
MAY 22 2013
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for HJR No. 16

Dear Mr. Schweich:

Enclosed please find a copy of HJR No. 16 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with §§ 116.160.1, 116.170 and 116.175 RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to § 116.170 RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

K-HJR16

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 16

97TH GENERAL ASSEMBLY

0895S.02T 2013

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment to article I of the Constitution of Missouri, and adopting one new section relating to admissibility of evidence.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 18(c), to read as follows:

Section 18(c). Notwithstanding the provisions of sections 17 and 18(a) of this article to the contrary, in prosecutions for crimes of a sexual nature involving a victim under eighteen years of age, relevant evidence of prior criminal acts, whether charged or uncharged, is admissible for the purpose of corroborating the victim's testimony or demonstrating the defendant's propensity to commit the crime with which he or she is presently charged. The court may exclude relevant evidence of prior criminal acts if the probative value of the evidence is substantially outweighed by the danger of unfair prejudice.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14-HJR16

Section B. The official ballot title for section A of this act shall read as follows:

"Shall the Missouri Constitution be amended so that it will be permissible to allow relevant evidence of prior criminal acts to be admissible in prosecutions for crimes of a sexual nature involving a victim under eighteen years of age?"

✓

Speaker of the House

Tom Dempsey

President Pro Tem of the Senate

14-HJR 48

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
MAY 30 2014
STATE AUDITORS OFFICE

May 30, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for House Joint Resolution No. 48

Dear Mr. Schweich:

Enclosed please find a copy of House Joint Resolution No. 48 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

K1-HJR48

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE JOINT RESOLUTION NO. 48

97TH GENERAL ASSEMBLY

4358H.01P 2014

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing section 39(b) of article III of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the state lottery.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article III of the Constitution of the state of Missouri:

Section A. Section 39(b), article III, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 39(b), to read as follows:

Section 39(b). 1. The general assembly shall have authority to authorize a Missouri state lottery by law. If such legislation is adopted, there shall be created a "State Lottery Commission" consisting of five members who shall be appointed by the governor with the advice and consent of the senate and who may be removed, for cause by the governor and who shall be chosen from the state at large and represent a broad geographic spectrum with no more than one member chosen from each federal congressional district. Each member at the time of his **or her** appointment and qualification shall have been a resident of this state for a period of at least five years next preceding his **or her** appointment and qualification and shall also be a qualified elector therein and be not less than thirty years of age. No more than three members of the commission shall be members of the same political party. Members of the commission shall have three-year terms as provided by law. Members of the commission shall receive no salary but shall receive their actual expenses incurred in the performance of their responsibilities. The

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

commission shall employ such persons as provided by law. The commission shall have the authority to join other states and jurisdictions for the purpose of conducting joint lottery games.

2. The money received by the Missouri State lottery commission from the sale of Missouri lottery tickets, and from all other sources, shall be deposited in the "State Lottery Fund", which is hereby created in the state treasury. **No later than July 1, 2015, the state lottery commission shall develop and begin selling a "Veterans Lottery Ticket", and all net proceeds received from the sales of such tickets shall be deposited solely in the veterans commission capital improvement trust fund, as provided by law.**

3. [The] **Except as provided in subsection 2 of this section, the** monies received from the Missouri state lottery shall be governed by appropriation of the general assembly. Beginning July 1, 1993, monies representing net proceeds after payment of prizes and administrative expenses shall be transferred by appropriation to the "Lottery Proceeds Fund" which is hereby created within the state treasury and such monies in the lottery proceeds fund shall be appropriated solely for public institutions of elementary, secondary and higher education.

4. A minimum of forty-five percent of the money received from the sale of Missouri state lottery tickets shall be awarded as prizes.

5. The commission shall have the authority to purchase and hold title to any securities of the United States government or its agencies and instrumentalities thereof for prizes, as provided by law.

6. Until July 1, 1993, any person possessing a department of revenue retail sales license as provided by law or any chartered civic, fraternal, charitable or political organization or labor organization shall be eligible to obtain a license to act as a lottery ticket sales agent except a license to act as an agent to sell lottery tickets shall not be issued to any person primarily engaged in business as a lottery ticket sales agent. Until July 1, 1993, the general assembly may impose additional qualifications on such persons to obtain a lottery ticket sales agent license as it deems appropriate. Until July 1, 1993, the commission is also authorized to sell lottery tickets at its office and at special events as provided by law. Beginning July 1, 1993, the general assembly shall enact laws governing lottery ticket sales.

7. Revenues produced from the conduct of a state lottery shall not be part of "total state revenues" as defined in sections 17 and 18 of article X of this constitution and the expenditure of such revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

✓

Speaker of the House

President Pro Tem of the Senate

14-HJR 72

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
MAY 30 2014
STATE AUDITORS OFFICE

May 30, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for House Joint Resolution No. 72

Dear Mr. Schweich:

Enclosed please find a copy of House Joint Resolution No. 72 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

14-HJR 72

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE JOINT RESOLUTION NO. 72

97TH GENERAL ASSEMBLY

5412H.01T 2014

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing sections 24 and 27 of article IV of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to the governor's budgetary authority.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article IV of the Constitution of the state of Missouri:

Section A. Sections 24 and 27, article IV, Constitution of Missouri, are repealed and two new sections adopted in lieu thereof, to be known as sections 24 and 27, to read as follows:

Section 24. The governor shall, within thirty days after it convenes in each regular session, submit to the general assembly a budget for the ensuing appropriation period, containing the estimated available revenues of the state and a complete and itemized plan of proposed expenditures of the state and all its agencies[, together with his recommendations of any laws necessary to provide revenues sufficient to meet the expenditures]. **The governor shall not determine estimated available revenues of the state using any projection of new revenues to be created from proposed legislation that has not been passed into law by the general assembly. Estimates of any unspent fund balances, without regard to actual or estimated revenues but accounting for all existing appropriations, that will constitute a surplus during the fiscal year immediately preceding the fiscal year or years for which the governor is recommending a budget, may be included in the estimated revenue available**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14-HJR 72

for expenditure during the fiscal year or years for which the governor is recommending a budget. As used in this section, new revenues shall not include existing provisions of law subject to expiration during the ensuing appropriation period.

Section 27. **1.** The governor may control the rate at which any appropriation is expended during the period of the appropriation by allotment [or other means,] and may reduce the expenditures of the state or any of its agencies below their appropriations whenever the actual revenues are less than the revenue estimates upon which the appropriations were based. **The governor shall not reduce any appropriation for the payment of principal and interest on the public debt.**

2. The governor shall notify the general assembly by proclamation whenever the rate at which any appropriation shall be expended is not equal quarterly allotments, the sum of which shall be equal to the amount of the appropriation. Any rate of expenditure for any appropriation which is not equal quarterly allotments shall stand reconsidered in the chamber in which the bill that contained the appropriation originated. Such reconsideration shall be in the manner that a bill is reconsidered under article III, section 32. Either the general assembly that receives the proclamation or the next general assembly may reconsider the rate of expenditure. If the general assembly successfully reconsiders the rate of expenditure for the appropriation in question, the rate shall be assumed to be equal quarterly allotments. Such reconsideration may be at any time the general assembly is in session including sessions pursuant to article III, sections 20, 20(b), and 32 and article IV, section 9. Either the general assembly that receives the proclamation or the next general assembly may reconsider such allotment allocation change. Such reconsideration may be at any time the general assembly is in session including sessions pursuant to article III, sections 20, 20(b), and 32 and article IV, section 9.

3. The governor shall notify the general assembly by proclamation when the governor reduces one or more items or portions of items of appropriation of money as a result of actual revenues being less than the revenue estimates upon which the appropriations were based. Each item or portions of items of appropriation of money shall stand reconsidered in the chamber in which the bill that contained the appropriation originated. Such reconsideration shall be in the manner that a bill is reconsidered under article III, section 32. Either the general assembly that receives the proclamation or the next general assembly may reconsider such reduction. Such reconsideration may be at any time the general assembly is in session including sessions pursuant to article III, sections 20, 20(b), and 32 and article IV, section 9.

14-HJR 72

Section B. Pursuant to Chapter 116, RSMo, and other applicable constitutional provisions and laws of this state allowing the General Assembly to adopt ballot language for the submission of a joint resolution to the voters of this state, the official ballot title of the amendment proposed in Section A shall be as follows:

"Shall the Missouri Constitution be amended to require the governor to pay the public debt, to prohibit the governor from relying on revenue from legislation not yet passed when proposing a budget, and to provide a legislative check on the governor's decisions to restrict funding for education and other state services?"

✓

Speaker of the House

President Pro Tem of the Senate

Governor

14-HJR 90

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 30, 2014

RECEIVED
MAY 30 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Joint Resolution No. 90

Dear Mr. Schweich:

Enclosed please find a copy of Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Joint Resolution No. 90 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

KI-HJR 90

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 90

97TH GENERAL ASSEMBLY

6542S.07T 2014

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment to article VIII of the Constitution of Missouri, by adding thereto one new section relating to early voting.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article VIII of the Constitution of the state of Missouri:

Section A. Article VIII, Constitution of Missouri, is amended by adding thereto one new section, to be known as section 11, to read as follows:

Section 11. 1. Qualified voters of the state shall be entitled to vote in person or by mail in advance of the day of the general election, but only under the following subdivisions:

(1) Qualified voters casting ballots under this section shall have been registered to vote, unless otherwise provided by law, on or before the fourth Wednesday prior to the day of the election;

(2) No qualified voter shall be required to state any reason, excuse, or explanation for casting a ballot under this section;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14-HJR 90

(3) Ballots shall be cast in person or by mail only during the six business days, not to include Saturday or Sunday, immediately prior to and including the last Wednesday prior to the election day. In-person ballots shall be cast at the local election authority during its regular business hours;

(4) Each local election authority shall appoint at least one election judge from each major political party to serve at the site of the local election authority. Procedures for appointing judges, casting ballots, and tabulating ballots shall be the same as provided by general election laws.

2. No local election authority or other public official shall, in advance of the day of the election, disclose the identity of any qualified voter who, in advance of the day of the election, has cast or has not cast a ballot, unless the qualified voter has authorized the disclosure. A qualified voter's authorization must be in writing, signed by the qualified voter, dated, and delivered to the secretary of state no later than the sixth Wednesday prior to the day of the election. An authorization is effective only for one general election.

3. If any local election authority is required by any provision of law or of this constitution to produce, in advance of the day of the election, a list of qualified voters who have already cast ballots, such list shall designate those qualified voters who have not filed a valid written authorization under subsection 2 of this section by using a random designation that does not identify those qualified voters or provide residential or other personal information from which their identities might be determined. If any such list is required to be delivered promptly after a request, the list shall be deemed to have been promptly delivered if it is delivered no later than 5:00 p.m. on the Monday before the election day. In addition to the restrictions in this section on the provision of identifying information, any such list shall include only qualified voter information authorized to be disclosed pursuant to general election laws.

4. The secretary of state and local election authorities shall provide qualified voters mail-in ballots under this section only by mail, and only upon the written, signed, and dated request of a qualified voter. Such request shall be valid for only one general election. No qualified voter shall receive more than one mail-in ballot.

5. No local election authority or other public office shall conduct any activity or incur any expense for the purpose of allowing voting in person or by mail in advance of the general election day unless a state appropriation is made and disbursed to pay the local election authority or other public office for the increased cost or expense of the activity.

6. The provisions of this section shall be self-executing. Any law that conflicts with this section shall not be valid or enforceable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the

14-HJR90

remaining provisions of this section shall be and remain valid. Nothing in this section shall be deemed to repeal or invalidate section 7 of article VIII of this constitution or to repeal or invalidate general laws permitting certain qualified voters to cast absentee ballots. This section shall not be repealed or invalidated by constitutional amendment, in whole or in part, unless the text of the amending provision expressly references this section or the parts thereof that are to be repealed, and no part of this section shall be repealed by implication.

Section B. Pursuant to chapter 116 and other applicable constitutional provisions and laws of the this state allowing the general assembly to adopt ballot language for the submission of this joint resolution to the voters of this state, the official summary statement of this resolution shall be as follows:

"Shall the Missouri Constitution be amended to permit voting in person or by mail for a period of six business days prior to and including the Wednesday before the election day in all general elections?"

✓

Speaker of the House

President Pro Tem of the Senate

KA-SJR 27

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

May 30, 2014

RECEIVED
MAY 30 2014
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for Senate Committee Substitute for Senate Joint Resolution No. 27

Dear Mr. Schweich:

Enclosed please find a copy of Senate Committee Substitute for Senate Joint Resolution No. 27 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

14-SJR27

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE JOINT RESOLUTION NO. 27

97TH GENERAL ASSEMBLY

2014

4379S.03T

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing section 15 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to government access of electronic data.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Section 15, article I, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 15, to read as follows:

Section 15. That the people shall be secure in their persons, papers, homes [and], effects, **and electronic communications and data,** from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, **or access electronic data or communication,** shall issue without describing the place to be searched, or the person or thing to be seized, **or the data or communication to be accessed,** as nearly as may be; nor without probable cause, supported by written oath or affirmation.

Section B. Pursuant to chapter 116, and other applicable constitutional provisions and laws of the this state allowing the general assembly to adopt ballot language for the submission of this joint resolution to the voters of this state, the official summary statement of this resolution shall be as follows:

"Shall the Missouri Constitution be amended so that the people

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14-SJR-27

shall be secure in their electronic communications and data from unreasonable searches and seizures as they are now likewise secure in their persons, homes, papers and effects?"

✓

President of the Senate

Speaker of the House of Representatives

Governor

14-SJR 36

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 30, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
MAY 30 2014
STATE AUDITORS OFFICE

RE: Fiscal Note and Fiscal Note Summary Request for Senate Committee Substitute for Senate Joint Resolution No. 36

Dear Mr. Schweich:

Enclosed please find a copy of Senate Committee Substitute for Senate Joint Resolution No. 36 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

14-SJR 36

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE JOINT RESOLUTION NO. 36

97TH GENERAL ASSEMBLY

2014

4598S.02T

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing section 23 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the right of Missouri citizens to keep and bear arms.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Section 23, article I, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 23, to read as follows:

Section 23. That the right of every citizen to keep and bear arms, **ammunition, and accessories typical to the normal function of such arms,** in defense of his home, person, **family** and property, or when lawfully summoned in aid of the civil power, shall not be questioned[; but this shall not justify the wearing of concealed weapons]. **The rights guaranteed by this section shall be unalienable. Any restriction on these rights shall be subject to strict scrutiny and the state of Missouri shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement. Nothing in this section shall be construed to prevent the general assembly from enacting general laws which limit the rights of convicted violent felons or those adjudicated by a court to be a danger to self or others as result of a mental disorder or mental**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

infirmity.

Section B. Pursuant to chapter 116, and other applicable constitutional provisions and laws of the this state allowing the general assembly to adopt ballot language for the submission of this act to the voters of this state, the official ballot title of this act shall be as follows:

"Shall the Missouri Constitution be amended to include a declaration that the right to keep and bear arms is a unalienable right and that the state government is obligated to uphold that right?"

✓

Tom Dempsey

President of the Senate

Speaker of the House of Representatives

Governor